

2018

Town of Bremen Maine Ordinances

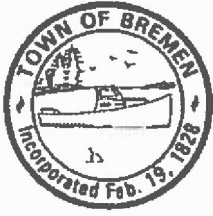
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TOWN OF BREMEN
PO BOX 171, 208 WALDOBORO RD
BREMEN, MAINE 04551
(207) 529-5945 • FAX (207) 529-6302

**BOARD OF APPEALS ORDINANCE
FOR THE TOWN OF BREMEN, MAINE**

Enacted: May 03, 2018

Certified by: *Cynthia A. Hasty*
Cynthia A. Hasty
Town Clerk



Town of Bremen

Board of Appeals Ordinance

March 30, 2018

Section 1. Establishment

There is hereby established a Board of Appeals pursuant to the Maine Constitution, Article VIII and the laws of the State of Maine at 30-A M.R.S.A. Sections 2691, 4352, 4353, and 3001, as enacted and as hereafter amended.

Section 2. Appointment

- A. Members of the Board of Appeals shall be appointed by the Selectmen and be sworn in by the municipal clerk.
- B. The Board shall consist of five (5) members and two (2) alternate members, all of whom must be registered voters in the Town of Bremen.
- C. The term of each member shall be three (3) years, except the initial appointments which shall be for one, two or three years, with alternate members appointed for three years.
- D. When there is a permanent vacancy, the Selectmen shall appoint a person to serve for the unexpired term. A vacancy shall occur upon the resignation or death of any member, when a member fails to attend four (4) consecutive regular meetings without a reasonable excuse, or when a member ceases to be a voting resident of the Town. The Selectmen may remove a member of the Board by majority vote, for cause, after notice and hearing.
- E. A Selectman, a Planning Board member or alternate, or the Code Enforcement Officer may not serve as a member or alternate member of the Board.

Section 3. Organization, Rules and Procedures

- A. The Board shall elect a chair from among its full voting members and create and fill such other offices as it may determine. The term of all offices shall be one (1) year with eligibility for reelection.
- B. When a member is unable to act because of interest, physical incapacity, absence or any other reason satisfactory to the chair, the chair shall designate an alternate member to sit in his or her place.

- C. Whenever it is not clear whether a particular issue involves a conflict of interest sufficient to disqualify a member from voting thereon, the question shall be decided by a majority vote of the members, except the member who is being challenged.
- D. An alternate member may attend all meetings of the Board and participate in its proceedings but may vote only when he or she has been designated by the chair to sit for a member.
- E. The chair shall call a meeting when there is business to conduct.
- F. A meeting of the Board may not be held without a quorum consisting of three (3) members or alternate members authorized to vote. Action may not be taken, or an issue decided by the Board, without at least three (3) concurring votes on the issue before the Board. The result of a tie vote or a vote with less than three (3) concurring votes is a negative vote and/or denial.
- G. The chair shall vote on all motions, and a member may abstain from voting only after providing an explanation.

Section 4. Duties and Powers

- A. The Board may adopt rules and procedures for transaction of business, and the Town shall keep a record of its resolutions, transactions, correspondence, findings and determinations.
- B. The Board shall file all rules and procedures and subsequent revisions with the municipal clerk. Copies shall be provided to the municipal officers for their information.
- C. The Board shall perform such duties and exercise such powers as are provided by this Ordinance and the laws of the State of Maine.

Section 5. Severability Clause

Should any section or provision of this Ordinance be declared by the courts to be invalid, such decision shall not invalidate any other section or provision of this Ordinance.

Section 6. Jurisdiction

- A. The Board is authorized to hear appeals from decisions made under each of the Town's ordinances.

- B. The Board's authority does not include hearing appeals from the enforcement decisions made by the Selectmen.

Section 7. Types of Appeals

The Board shall consider the following appeals:

A. Administrative Appeal of Planning Board Decisions

1. The Board shall hear and decide appeals where it is alleged there is an error in any decision, order, requirement, determination made or refusal to act by the Planning Board.
2. The Board may reverse the decision of the Planning Board only upon finding that the decision is clearly contrary to a specific provision of the ordinance, that the provision has been clearly misinterpreted or that the findings of fact supporting the decision are clearly not supported by substantial evidence in the record.
3. Administrative appeals of Planning Board decisions may not be considered *de novo*.
4. The Board's review, on an appeal from a decision of the Planning Board, shall be limited to a review of the record that was the basis of the decision, and no additional factual matters may be considered. In the event the record of the Planning Board is determined by the Board to be inadequate for review, the Board may order that the matter be remanded to the Planning Board for completion. In any remand order, the Board shall provide written notice of the deficiencies in the record and shall specify a date by which a completed record shall be submitted to the Board. Such date shall be, without good cause, no fewer than 30 days and no more than 60 days from the date of the remand order.
5. The Board may receive written briefs and hear oral argument from the parties or their designated representatives but shall not receive or consider new evidence.

B. De Novo Appeal of all other Decisions

1. The Board shall hear and decide appeals where it is alleged that there is an error in any decision, order, requirement, determination made or refusal to act by the deciding authority other than the Planning Board under the applicable ordinance.
2. The Board may reverse the decision of the deciding authority only upon finding that the decision is clearly contrary to a specific provision of the ordinance, that the provision has been clearly

misinterpreted or that the decision clearly was not supported by substantial evidence. The Board may also affirm, modify, and/or add or delete conditions to the decision or permit being reviewed if such modification, addition or deletion of conditions cures the errors of the deciding authority.

3. *De Novo* appeals of these decisions shall be considered *de novo*. The deciding authority shall be a party to the appeal.
4. The Board's review may consider all relevant evidence, including new and/or additional factual matters that were not considered or known by the deciding authority.
5. The Board may hear witnesses, admit documents, receive written briefs, and hear oral arguments from the parties or their designated representatives.
6. The Rules of Evidence shall not apply. Any evidence that the Board deems relevant may be admitted and relied upon in the Board's decision.

Section 8. Variances

A. Standard Variance

A standard variance may be granted by the Board under the following conditions:

1. Variances may be granted only for height, minimum lot size, minimum lot coverage, structure size, road or sideline setbacks, shore frontage, road frontage, and open space requirements.
2. Variances may not, under any circumstances, be granted for establishment of any uses otherwise prohibited.
3. The Board may not grant a variance unless it finds that all the following criteria are met:
 - a. that the land in question cannot yield a reasonable return unless a variance is granted;
 - b. that the need for a variance is due to the unique circumstances of the property and not the general conditions in the neighborhood;
 - c. that the granting of a variance will not alter the essential character of the locality; and

- d. that the hardship is not the result of action taken by the applicant or a prior owner.
4. A hardship may be found by the Board when the ordinance, as applied to the applicant's property, substantially destroys or decreases the value of the property in question for any permitted use to which the land or property can reasonably be put. Mere inconvenience to the property owner shall not satisfy this requirement. Financial hardship alone or pleading that a greater profit may be realized from the applicant's property were a variance granted shall not be sufficient evidence of necessary hardship.
5. The Board shall limit any variances granted as strictly as possible in order to preserve the terms of the ordinance as much as possible, and it may impose such conditions to a variance as it deems necessary to this end.
6. This authority is intended to implement and to be consistent with 30-A M.R.S.A. §4353(4).

B. Disability Variance

1. Dwelling Access

The Board may grant a variance to an owner of a dwelling for the purpose of making that dwelling accessible to a person with a disability who resides in or regularly uses the dwelling.

The term "structures necessary for access to or egress from the dwelling" is defined to include railing, wall, or roof systems necessary for the safety or effectiveness of the structure.

The Board shall restrict any variance granted under this subsection solely to the installation of equipment or the construction of structures necessary for access to or egress from the dwelling by the person with the disability.

2. Garage

The Board may grant a variance to an owner of a dwelling who resides in the dwelling and who is a person with a permanent disability for the construction of a place of storage and parking for a noncommercial vehicle owned by that person and no other purpose. The width and length of the structure may not be larger than two (2) times the width and length of the noncommercial vehicle. The owner shall submit to the Board proposed plans for the structure with the request for the variance pursuant to this paragraph.

For purposes of this subsection, "noncommercial vehicle" means a motor vehicle as defined in 29-A M.R.S.A. §101, sub-§42 with a gross vehicle weight of no more than 6,000 pounds, bearing a disability registration plate issued pursuant to 29-A M.R.S.A. §521 and owned by the person with the permanent disability.

3. Conditions

The Board may impose conditions on the variance granted pursuant to this section, including limiting the variance to the duration of the disability or to the time that the person with the disability lives in the dwelling.

For the purpose of this section, a disability has the same meaning as a physical or mental handicap under 5 M.R.S.A. §4353-A. All medical records submitted to the Board and any other documents submitted for the purpose of describing or verifying a person's disability are confidential.

This authority is intended to implement and to be consistent with 30-A M.R.S.A. §4353(4-A).

C. Building Violation Variance

The Board may hear and decide variance requests in specific cases where existing buildings are found to be in violation of the ordinance requirements and where the Board concludes that allowing the building to remain in its existing location would not be contrary to public health, safety or welfare.

Before granting a variance under this subsection, the Board shall find that the setback violation is not the result of a willful, premeditated act or of gross negligence on the part of the applicant.

The granting of a request under this subsection shall permit the existing building or structure to remain. Any future expansion, enlargement or relocation of the structure is prohibited.

Section 9. Procedure

A. Making an Appeal

An administrative appeal may be taken to the Board by an aggrieved person from any administrative decision of the Planning Board. An appeal shall be applied for within thirty (30) days of the actual decision date, with the payment of a fee as set by the Selectmen.

An appeal shall be made by filing with the Board a written notice of appeal, on the Town's application form, specifying the grounds for such appeal, including stating the section of the ordinance claimed to have been misinterpreted or misapplied or the facts that are in dispute.

B. Requesting a Variance

An application for a variance may be filed at any time directly with the Board in accordance with the procedures below:

1. A variance application shall be applied for with the payment of a fee as set by the Selectmen.
2. The applicant shall submit:
 - a. A sketch drawn to scale of 1 inch to 10 feet showing measurements for lot lines, location of existing buildings and other physical features pertinent to the variance request. For large lots, the scale may be changed, or the sketch may be for only the affected portion of the lot.
 - b. A concise written statement stating what variance is requested and the reasons for the request.
 - c. A completed application on the Town's application form.

C. Procedure

1. The Board shall notify the Selectmen, Planning Board, Code Enforcement Officer, deciding authority, and applicant of the appeal or application.
2. Upon being notified of an appeal, the deciding authority or Planning Board shall transmit to the Board, at least five (5) days before the first meeting, all the documents and records specifying the record of the decision appealed.
3. The Board shall hold its first meeting on the appeal or application within thirty-five (35) days of its receipt of an appeal or application, or later if agreed to or requested by the applicant.
4. The Board may hold a public hearing on the appeal or application within thirty-five (35) days of its first meeting or later if agreed to or requested by the applicant.

D. Hearing Procedures

1. In *de novo* appeals and variance applications the Board may receive oral or documentary evidence, but exclude irrelevant, immaterial or unduly repetitious evidence. Every party shall have the right to present his/her case or defense by oral or documentary evidence.
2. Documentary evidence for administrative appeals of Planning Board decisions may only consist of the Planning Board's record and evidence considered by the Planning Board.
3. In all *de novo* appeals and applications, the applicant shall provide to the Board, at least five (5) days before the first meeting, a minimum of eight (8) copies of the documentary evidence.
4. **Publication Notice:**

The Town shall publish notice of any public hearing at least ten (10) days in advance in a newspaper with general circulation in the Town. The public notice shall contain, at a minimum, the name of the applicant, the location of the property at issue (if applicable), a description of the relief requested, and the date, time and place of the public hearing. The Town shall also post the notice on its website and distribute it to those on its e-mail list.

5. **Mail Notification:**

The Town shall notify in writing the applicant, landowners of record within five hundred (500) feet of the affected property, the Planning Board, the Selectmen, and the deciding authority at least ten (10) days in advance of the first Board meeting or hearing by regular mail. The owners of the property entitled to notice shall be considered to be those shown on the current Town tax records. Failure of any property owner to receive a notice of a meeting or public hearing shall not necessitate another hearing or invalidate any action by the Board.

6. At any meeting or hearing, the Board shall determine the order of presentation of evidence and argument. If permitted, questions from the public shall be asked through the chair. All persons at the meeting or hearing shall abide by the order of the chair.
7. At any meeting or hearing, a party may be represented by agent or attorney.
8. For all appeals, the deciding authority or representative of the Planning Board shall attend all meetings and hearings and may

present to the Board all plans, photographs, or other materials that were considered at the time of the decision under appeal and that constitute the record for the decision. In *de novo* appeals of deciding authority decisions, new evidence may be presented that was not considered at the time of the decision under appeal.

9. In administrative appeals, the transcript of testimony, if any, and exhibits together with all documents and requests filed in the proceedings, shall constitute the record.
10. The person filing the appeal or applying for the variance shall have the burden of proof by a preponderance of the evidence.
11. The Board shall decide all appeals or applications within thirty-five (35) days of the first meeting or any public hearing, whichever is later. Notice of any decision shall be mailed or hand delivered to the applicant, his representative or agent, the deciding authority, the Planning Board, and the Selectmen within seven (7) days of the actual decision date.
12. The Board shall issue a written decision on all appeals or applications within a reasonable time thereafter. The written decision shall include findings of facts that the Board relied upon to make its decision, as well as the legal conclusions and ordinance interpretations made by the Board upon all the material issues of fact, law or discretion presented and the appropriate order for relief or denial. The written decision shall be promptly delivered to the same parties upon its completion and signing. All written decisions shall become a part of the record.
13. The landowner shall submit to the Department of Environmental Protection a copy of all variances affecting Shoreland Zoning granted by the Board within fourteen (14) days of the written decision. Proof of that submission shall be delivered to the Town by the landowner at the same time. The variance shall not be valid until submitted to the Department.
14. A copy of all variances granted by the Board shall be recorded in the Lincoln County Registry of Deeds by the landowner within ninety (90) days of the written decision. The variance shall not be valid until recorded. Proof of the recording shall be delivered to the Town by the landowner.

E. Reconsideration

A request for reconsideration, with the reasons therefor, may be filed with the Board within ten (10) days of its actual decision. A decision on the request to reconsider shall be completed within thirty (30) days of the date

of the request. If the request is granted, the Board may conduct additional hearings and receive additional evidence and testimony on *de novo* appeal and variance reconsiderations.

F. Appeals to Superior Court

Any aggrieved party who participated as a party during the proceedings before the Board may take an appeal to Superior Court in accordance with 30-A M.R.S.A. §2691 (3)(G) and Rule 80B of the Maine Rules of Civil Procedure within thirty (30) days of the vote on the original decision of the Board.

G. Calculating Time

All time limits begin with the actual date of the vote on the decision and not the date of the written decision.

Section 10. Effective Date

The effective date of this Ordinance is May 03, 2018 except that it does not apply to any matters pending on that date as provided in 1 M.R.S.A. §302.

TESTED:


KAREN E. RUTAN

ENACTED: NOVEMBER 7, 2000
CERTIFIED COPY

TOWN OF BREMEN
Earth Material Extraction and Use Ordinance
Of the
Town of Bremen, Maine
Enacted—NOVEMBER 7, 2000

I. Title.

This ordinance shall be known as and may be cited as the "Earth Material Extraction and Use Ordinance" of the Town of Bremen, Maine.

II. Authority.

This ordinance is enacted pursuant to the home rule authority of the Town, including 30-A M.R.S.A. § 2101 et. Seq.

This ordinance is also enacted consistent with the Comprehensive Plan – Town of Bremen, 1988.

III. Definitions.

[A] Town: Town means the Town of Bremen, Maine, United States.

[B] Earth: Earth means soil, loam, peat, clay, sand, gravel, rock, and stone or other mineral or organic deposits in, on or from the land, wetlands or water bodies.

[C] Extraction: Extraction means the removal and movement of earth from one place to another, it includes lagooning, dredging, excavation, filling, and grading.

[D] Use: Use means processing and storage of earth.

[E] Significant traffic increase: Significant traffic increase means increase the use of public roads through entry and exit of heavy trucks and other heavy equipment to public roads from private property that occurs more than thirty (30) times in a 24 hour period.

[F] Small, small scale: Small and small scale means earth extraction, movement, and uses involving less than five thousand (3000) cubic yards of earth and involving a total surface alteration or disturbance of less than five (5) acres. When applied to ledge mining, small scale means one thousand (1000) cubic yards of ledge.

[G] **Large, large scale:** Large and large scale means earth extraction, movement and uses involving more than five thousand (3000) cubic yards of earth and involving a total surface alteration or disturbance of more than five (5) acres. When applied to ledge mining, large scale means more than one thousand (1000) cubic yards of ledge.

[H] **Processing:** Processing means combining earth with substances designed to make an aggregate such as asphalt or concrete.

[I] **Temporary:** Temporary means six (6) weeks or less during any fifty-two (52) week period.

[J] **Mobile:** Mobile means on wheels and able to be moved onto or off of a site on a daily basis.

IV. Purpose, Findings, and Intent

[A] **Purpose:** It is the purpose of this ordinance is to promote and protect the public health, safety and welfare by providing that:

[1] Small scale extraction and movement of earth materials may be done without review, and

[2] Large scale extraction and movement of earth material be done in accordance with certain standards so as to protect the environment, maximize compatibility between adjacent land uses and protect property values.

[B] **Findings:** The Town finds as follows:

[1] Sand and gravel are valuable natural resources required by the Town for the needs of the Town residents,

[2] Bremen does not have extensive sand or gravel resources,

[3] Earth extraction can leave unsightly scars on the earth's surface that may damage the natural beauty of Bremen,

[4] Large-scale earth extraction can damage the Town's systems of aquifers, ground water, wet lands, and ponds,

[5] Earth extraction operations can produce excessive noise, dust, and other by-products,

[6] Earth extraction operations can increase road use, cause traffic safety hazards and increase the road maintenance requirements, and

[7] The Town's residents and visitors enjoy a peaceful rural setting with a pace of life derived from the historic custom and uses of the Town's natural and scenic resources.

[C] **Intent:** It is the intent of this ordinance to:

[1] Allow small scale earth extraction operations to operate with a minimum of regulation provided they are well-screened from public view, do not adversely affect the Town's ground water or other natural resources, and do not create unreasonable public nuisances such as noise, dust, and significant traffic increases:

[2] Establish performance standards to which larger operations are subject to, and

[3] Prohibit large ledge mining.

[4] Permit temporary, mobile-processing facilities.

V. Application:

This ordinance shall apply to and govern all "earth material extraction, movement or use" with in the Town of Bremen **except** that it shall **not apply** to:

- [A] Normal excavation operations incidental to and at the site of:
 - [1] Permitted construction activities such as the construction of buildings, parking areas, and driveways, or
 - [2] The construction of roads.
- [B] To the earth extraction, movement and use operations involving less than one thousand (1000) cubic yards of earth within any 12 month period.
- [C] To sand and gravel operations involving less than three thousand (3000) cubic yards of sand and gravel within any 12 month period.
- [D] To agricultural operations including, but not limited to, tilling of soil, creation of ponds, runoff and erosion control, agricultural grading, or other agricultural use such as the mixing, adding and redistribution of materials to the land for increasing its fertility.
- [E] The construction of Town or State roads and parking lots located within the Town of Bremen.

VI. Permitted Uses:

Earth material extraction, movement and use shall be a permitted use within the Town of Bremen provided it complies with the provisions of this ordinance.

Processing facilities shall be a permitted use within the Town of Bremen provided the processing facility is temporary and remains on the site for no more than six weeks annually.

VII. Ledge Mining:

Ledge mining within the Town of Bremen shall be permitted as follows:

- [A] The large-scale mining of the Town's ledges is prohibited.
- [B] The small-scale mining of the Town's ledges is permitted provided that if explosive devices are required:
 - [1] The entity using the explosive device has given due public notice of its intentions to the Town,
 - [2] The entity using the explosive device has given notice by mail to all of the Town's residents within a one (1) mile radius of the blast site,
 - [3] The Selectmen hold public hearing after due public notice given,
 - [4] An environmental impact study, showing no significant impact to the Town's aquifers, is filed with the Town's Planning Board,
 - [5] The Planning Board, after review and verification of the environmental impact study, has issued a permit for the schedule of explosions.
 - [6] The entity using the explosive device has mailed a schedule of explosions to all residents in the Town.

VIII. Existing Operations:

Any extraction or movement site legally existing, legally operating and fully permitted as required by M.R.S.A. 38 § 490 et seq. on or prior to June 23, 2000 AD may continue to operate without a permit from the Town. Any expansions of operations shall comply with the standards of this ordinance. Any extraction or movement site continuing to operate shall file with the Planning Board, within ninety (90) days of the enactment of this ordinance, the information required by the Application for Permit. Any existing extraction or movement site that continues to operate after the enactment of this ordinance shall comply with this ordinance's requirements for reclamation.

IX. Non-conforming Uses:

If an existing site does not conform to the standards of this ordinance, but was legally existing, legally operating and fully permitted as required by M.R.S.A. 38 § 490 et seq. on or prior to June 23, 2000 (the effective date of the Bremen Commercial and Industrial Development Moratorium Ordinance of the Town of Bremen), that site shall be considered a non-conforming use. It may continue to operate so long as it does not increase any non-conforming aspect of the site such as by decreasing setbacks from surrounding property, or from a road in the event the operation is already too close, or by placing a processing facility.

X. Expansions:

No extraction or movement site existing prior to the enactment of this ordinance, that is designated a non-conforming use under Section IX. of this ordinance, shall expand its operation unless it complies with the performance standards set forth within this ordinance.

XI. Permit Required:

Any person or legally constituted entity that plans to engage in any earth material extraction or movement governed by this ordinance shall first apply for and obtain a Special Exception Permit from the Planning Board.

XII. Application for Permit

An application for permit for earth material extraction or movement shall be in accordance with and progress through the following:

- [A] Before making out an application, the prospective applicant shall attend an informational meeting with the Planning Board to discuss the nature and scope of the project and to determine what information, finding and materials may be necessary for the Planning Board to issue a permit.
- [B] The application shall be filed first with the Code Enforcement Officer (CEO) before being forwarded to the Planning Board.
- [C] The application shall be in writing include the following:
 - [1] The name and current address of the owner of the property involved, the name and the current address of the individual or legally constituted entity operating the site, if different from the property owner.

- [2] A description of:
- [a] The proposed extraction or movement operations,
 - [b] The estimated longevity of operation at the site and of the site,
 - [c] The proposed reclamation of the site upon completion of operations, and
 - [d] The details of any temporary, mobile processing facilities.
- [3] Information on the financial capacity of the applicant to comply with the Ordinance standards and carry out site reclamation.
- [4] If blasting is proposed, a blasting plan that includes an environmental impact study for the site, a hydrologic study, and an environmental assessment study for the surrounding areas.
- [5] A plan of the proposed extraction or movement site showing:
- [a] All relevant property lines and roads,
 - [b] The names of abutting landowners,
 - [c] The site's topography in not greater than five (5) foot contour intervals, together with the related, most recent US Geodetic Survey Map,
 - [d] The location and slope of the grades existing and as proposed upon completion of the extraction and movement operation,
 - [e] The location and slope of the grades after the completion of reclamation,
 - [f] The details of proposed fencing, buffer strips, signs, lighting, parking and loading areas, and the sites entrances and exits.
 - [h] A traffic assessment that includes:
 - [i] The anticipated maximum volume of traffic entering and exiting of the site,
 - [ii] The kinds of vehicles and equipment that will be entering and exiting the site,
 - [iii] Any existing potential traffic hazards on roads with in the Town of Bremen which service and or feed into service roads for the site together with the applicants plans to address them, and
 - [iv] The ability of service and feeder roads to physically withstand the additional traffic generated by the site's operation together with the applicant's plans to address any deficiencies.
 - [v] The traffic assessment shall consider actual, existing traffic conditions in the vicinity of the site.
- [i] A Reclamation Plan showing the manner in which the site will be returned to as near its natural state as possible by grading, filling, draining and planting. Each site reclamation plan must provide for, at a minimum, the following:
- [i] The storm drainage and watercourses shall leave the site at the original natural drainage points and in a manner so that the amount of drainage at any point is not significantly increased,

[ii] All proposed ponds, or other water entrapments must be shown and comply with local, state and federal regulations regarding the creation of water containment areas,

[iii] All disturbed areas along the buffer zone of abutting properties must be graded and filled to minimize the discontinuity of between the reclaimed site and abutting properties,

[iv] All stumps left on the site shall be buried and adequately covered,

[v] All disturbed areas shall be graded, cover with sufficient topsoil or loam and re-seeded so that they are properly restored to stable condition, and

[vi] Reclaimed slopes shall, in no instance other than a documented natural feature (photographed prior to commencing operation) be steeper than one (1) foot vertical to two (2) foot horizontal.

[6] An application fee, payable to the Town of Bremen in accordance with the following schedule:

[a] One hundred dollars (\$100) in US funds if the total area used or affected is less than or equal to five (5) acres.

[b] One thousand dollars (\$1000) in US funds if the total area used or affected is greater than five (5) acres.

The Planning Board may assess additional fees for any profession reviews, consultation, or work that the Planning Board determines is necessary for the Planning Board to render a decision regarding the application.

[7] Any performance bond or guarantees that the Planning Board may require.

[D] The Code Enforcement Officer (CEO) shall perform a preliminary review of the completed application and then forward it with his recommendations to the Planning Board.

[E] The Planning Board shall review the application and verify that it is complete. The Planning Board may return the application to the applicant if the application is incomplete or if, in the Board's opinion, the application requires additions or changes.

[1] The Planning Board shall cause to be created, by professional consultants, an impact study the proposed expansion or extraction operation will have upon the Town's water system, natural resources, marine environment, and public services. Using this study, the Planning Board will recommend to the Selectmen, for review at Town Meeting, impact fees to be assessed on the project.

[G] When the Planning Board determines that the application is complete, the Board shall issue the applicant a dated receipt. The Planning Board shall then begin its review of the application to determine if it meets the Ordinance standards.

[1] The Planning Board may hold a public hearing on the application. For any hearing, the Board shall cause to be published in a newspaper in general circulation in Lincoln County for not less than ten (10) days prior to the public hearing a notice of the hearing. The Board shall also send notice, by mail, of the hearing to all abutting property owners and their immediate abutters not less than fifteen (15) days prior to the public meeting.

[2] The Planning Board may decide after a public hearing that the proposed project requires acceptance by the legislative body of the Town. In the event the Planning Board reaches this decision, it shall request the Board of Selectmen hold a Special Town Meeting for this purpose.

[3] Within sixty (60) days of the public hearing or ninety (90) days of the receipt of the completed application, whichever is greater, the Board shall render a written decision either granting or denying the permit unless an extension of the granting period is mutually agreed upon in writing. The Board may grant the permit with or without additional conditions.

XIII. Permit Standards

Any proposed extraction and movement operation must comply with the standards set forth in this ordinance. The Planning Board shall review the application for compliance with these standards. The Board, if it grants a permit, may impose any conditions necessary to ensure compliance with these standards.

[A] The operation shall not cause any adverse effects:

[1] No undue pollution of air or water, including ground water. None of the Town's aquifers may be disturbed without a study of the potential impacts upon the Town's future.

[2] No undue impact on existing and foreseeable traffic patterns.

[3] Significant traffic increases shall not be permitted.

[4] No undue adverse impact on existing or approved but not constructed land uses.

[B] No part of any extraction or movement operation shall occur within a buffer strip that is two hundred (200) feet wide next to a right-of-way line for any public road and no part shall occur within fifty (50) feet of any property line, or legally existing private right-of-way. Natural vegetation in these strips shall be left and maintained on the undisturbed land. Commercially valuable trees, shrubs, and herbs may be removed, by exception, provided that this vegetation is replaced by replanting and/or fencing or other screening sufficient to screen the site from neighbors and from the public view. The Planning Board shall require the applicant to plant vegetation or place fencing or screening within the buffer strip areas, whether or not the strip area has been altered, if necessary to screen the site from neighbors and from public view.

[C] The extraction site shall have no slopes steeper than one (1) foot vertical to (2) feet horizontal unless a safety fence four (4) feet high is erected to limit access to such locations. All safety fences shall be of durable construction and maintained to prevent injuries arising from an attractive nuisance.

[D] Topsoil and subsoil suitable for purposes of re-vegetation shall, to the extent required for reclamation, be stripped from the site of the extraction and movement operations and be stockpiled for use in reclaiming the site after operations have ceased. Stockpiles shall be protected from erosion by being seeded, mulched, anchored or otherwise stabilized for the storage period.

[E] Sediments shall be trapped by diversion ditches, silt basins, dikes, terraces, or other similar control measures as necessary to prevent sediments from entering classified bodies of water.

[F] The sides and bottom of cuts, fills, channels, and artificial watercourses shall be constructed and stabilized to prevent erosion and any potential failure.

[G] Lagooning shall be conducted in such a manner as to avoid the creation of fish trap conditions. If lagoon is proposed, the applicant shall submit a written approval from the Department of Marine Resources or the Department of Inland Fisheries and Wildlife, as applicable.

[H] Loaded vehicles shall be suitably covered to prevent dust and contents from blowing or spilling from the load. All trucking routes shall be compatible with the neighborhoods through which they go and with the ability of the Town roads to carry such loads.

[I] All roads leading from the site to public ways shall be treated with suitable materials to reduce dust and mud for a distance of at least two hundred (200) feet from such public ways.

[J] After the completion of operations at any site or at any location within a site, ground levels and grades shall be established in accordance with the Reclamation Plan that was filed with and approved by the Planning Board.

[K] Petroleum products, or other substances that could contaminate a ground water or surface water must be stored on the affected land in accordance with the approved spill prevention, control, and containment procedures. Refueling operations, oil changes, and maintenance activities requiring the handling of hydraulic fluids, as well as any other on-site activity involving the use of products which, if spilled, could contaminate ground water or surface water, must be conducted in accordance with approved procedures.

[L] At all sites the following noise levels shall not exceed at the property lines of the site:

[1] In Resource Protection, and Residential Areas: Sixty (60) decibels

[2] The Planning Board shall determine noise levels for other areas when such other areas in the Town are identified.

[M] The hours of operation shall normally be limited from 8:00 a.m. to 4:30 p.m., Monday through Friday, for the operation of all heavy equipment including trucks. The Planning Board may, temporarily, set different hours so long as operational compatibility with the neighborhood is maintained. In no case shall the hours of operation exceed (10) hours per twenty-four (24) hour period.

[N] No signs marking and extraction or movement site shall be permitted.

[O] Every property owner, before commencing an extraction or movement operation shall file with the Town Clerk a certificate of insurance in the amount of:

[1] Five hundred thousand dollars (\$500,000.00 - US Funds) for small-scale operations.

[2] Five million dollars (\$5,000,000.00 - US Funds) for large-scale operations.

The insurance protection shall be for any liability arising from the operation, and such insurance shall be kept in full force and effect during the period of operations and for one year thereafter.

[P] The Planning Board may require for small-scale and shall require for large-scale earth extraction and movement operations a performance bond and guarantee.

[1] The applicant shall file with the Town Clerk a commercial surety bond, a certified check, or a savings account passbook payable to the Town in such amount and upon such conditions as the Planning Board determines may be adequate to:

[a] Indemnify against any claims that could arise out the proposed operation, and

[b] Ensure satisfactory performance of all conditions imposed or otherwise applicable.

XIV. Appeals

Any person or legally constituted entity aggrieved by a decision of the Planning Board may appeal to the Board of Appeals within thirty (30) days of the date of the Planning Board's written decision. The Board of Appeals shall hear the appeal in accordance with 30-A M.R.S.A. § 2691. Any person or legally constituted entity aggrieved by the decision of the Board of Appeals may appeal the decision to Superior Court in accordance with Rule 80B of the Maine Rules of Civil Procedure within 30 days of the date of the written decision.

XV. Violations and Enforcement

Whenever a violation of this Ordinance exists, the Code Enforcement Officer (CEO), shall notify the person responsible, setting forth each specific violation and the actions necessary to correct it. Such notice shall be in writing, shall be personally delivered to the person or legally constituted entity responsible or sent to it by certified mail, return receipt requested. Such notice shall set forth a specific, reasonable time to correct each specific violation. In no instance, unless an emergency exists, shall the time to correct each specific violation be less than ten (10) working days. A copy of such notice shall be retained by the Code Enforcement Officer, a copy filed with the Town Clerk, and a copy shall be forwarded to the Board of Selectmen at the same time it is sent to the person responsible or the legally constituted entity.

If the violation is not corrected within this time, the Selectmen (or the Code Enforcement Officer, if authorized) shall take appropriate legal steps to enforce the ordinance.

A violation of any condition of a permit or approval is also a violation of this Ordinance.

XVI. Penalties

If work is performed or an act is done which requires a permit or approval, but the permit or approval is not obtained until after the work or act, the permit fees for such after-the-fact permits or approvals shall be five (5) times the regular fee.

Any person responsible for a violation that remains uncorrected, after being notified to correct it, shall be liable for the penalties and sanctions set forth in 30-A M.R.S.A. § 4452, as amended. Each day the violation continues shall be considered a separate offense. Under this law the violator is liable for fines for each offense, may be ordered to correct or abate a violation, and may be liable for the Town's attorney's fees, except witness fees and costs.

All fines shall inure to the benefit of the Town.

XVII. Severability

If any section, subsection, sentence, or part of this ordinance is for any reason held invalid or unconstitutional, such section, subsection, sentence or part shall be deemed separable; such decision shall not affect the validity of the remaining portions of this ordinance, which shall remain in full force and effect and shall not be deemed rescinded or terminated thereby.

XVIII. Effective Date

This Ordinance shall become effective upon enactment.

Enacted:

11-7-2000



P.O. Box 171

Bremen, Maine 04551

(207) 529-5945

FAX (207) 529-6302

Dear Applicant:

The Bremen Planning Board is authorized to hear all applications for approval under the Commercial and Industrial Site Plan Review Ordinance. The first step in the process is a preapplication conference with the Planning Board. Although no formal submissions are required, you should discuss at the preapplication conference with the Planning Board any potential waivers of submission requirements. All required submissions are listed on the Site Plan Review Submission Checklist, a copy of which is attached for your information.

Following the preapplication conference, you will need to submit ten copies of the complete Site Plan Review Application Form, all submissions listed on the Site Plan Review Submission Checklist unless otherwise waived by the Planning Board or not applicable, and the Site Plan Review Fee. An additional Technical Review Fee will be determined by the Planning Board at a future date. Once this fee is determined, it must be paid before any future Planning Board review of your project. For additional information, please review the applicable sections of the Commercial and Industrial Site Plan Review Ordinance.

Bremen Planning Board

ENACTED: MARCH 31, 2001
CERTIFIED BY: Debra J. Koutan
TITLE: TOWN CLERK

TOWN OF BREMEN

AN ARTICLE VOTED UPON AT THE TOWN MEETING
ON MARCH 31, 2001

ARTICLE #40: To see if the Town will vote to amend the Earth Material Extraction and Use Ordinance by the following four amendments. Each amendment to be voted upon seperately.

AMENDMENT 1:
TO ADD THE FOLLOWING DEFINITIONS:

III. DEFINITIONS:

- (K) Town's ledges means a layer or mass of rock located within the Town of Bremen.
- (L) Expansion means to increase the scale of an earth extraction operation and/or change the nature of the earth extraction activity, an example would be to change from removing surface loam to dynamiting ledge for rip rap.
- (M) Permitted means subject to this ordinance.
- (N) Performance standards and permit standards mean the requirements to operate an earth extraction operation as set forth in this ordinance.
- (O) Due public notice means to cause information to be published in a newspaper in general circulation in Lincoln County and to post this information in three public places at least (10) days prior to an event.

AMENDMENT 2:
TO ADD THE FOLLOWING LANGUAGE:

IV. PURPOSE FINDINGS AND INTENT:

- (B) Findings: The Town finds as follows:
 - (8) On October 4, 2000 the Superior Court of Lincoln County ruled that:
 - (a) Ledge mining on the property owned by Marrison's Inc. Town Map 11, Lot number 14-A-1 did not exist prior to the enactment of the Town's Commercial and Industrial Moratorium Ordinance and, therefore, this extraction activity was subject to the Moratorium Ordinance and to any ordinances enacted by the Town during the period of the moratorium that regulated ledge mining.

AMENDMENT 4:
TO CHANGE THE FOLLOWING TYPOGRAPHICAL ERRORS.

- III Definitions:**
- (F) TO CHANGE FROM: (3000) TO: (5000)
 - (G) TO CHANGE FROM: (3000) TO: (5000)

ENACTED: March 30, 2002

CERTIFIED BY: Judith Mohr
Judith Mohr
Town Clerk

ART 38 . To see if the Town will vote to amend the Earth Extraction Ordinance as follows:

A. Amend Section III Definitions, in paragraph (F), to read as follows:

(F) Small, small scale: Small and small scale means earth extraction, movement, and uses involving less than five thousand (5,000) cubic yards of earth and involving a total surface alteration or disturbance of less than five (5) acres within twelve (12) months. When applied to ledge mining, small scale means one thousand (1,000) cubic yards of ledge within twelve (12) months.

B. Amend Section III, Definitions, in paragraph (G) to read as follows:

(G) Large, large scale: Large and large scale means earth extraction, movement, and uses involving more than five thousand (5,000) cubic yards of earth and involving a total surface alteration or disturbance of more than five (5) acres within twelve (12) months. When applied to ledge mining, large scale means more than one thousand (1,000) cubic yards of ledge within twelve (12) months.

C. Amend Section XII, Application for Permit, by repealing paragraphs (A), (B), (C)(1), (C)(3), (C)(5)(a) – (f), (C)(7), (D), (E) and (G), and replace them with the following paragraph (A):

(A) The application and review procedures of the Site Plan Review Ordinance shall apply.

D. Amend Section XII, Application for Permit by amending paragraph (c)(6)[a] to read as follows:

[a] ~~One hundred dollars~~ Two hundred-fifty dollars (\$250.00) in U.S. funds if the total area used or affected is less than or equal to five (5) acres.

E. Amend Section XIII, Permit for Standards by amending paragraph [B] to read as follows:

[B] No part of any extraction or movement operation shall occur within a buffer strip that is two hundred (200) feet out next to a right-of-way line for any public road, ~~and no part shall occur within fifty (50) feet of any property line, or legally existing private right-of-way.~~ Natural vegetation in these strips shall be left and maintained on the undisturbed land. Commercially valuable trees, shrubs, and herbs may be removed, by exception, provided that this vegetation is replaced by replanting and/or fencing or other screening sufficient to the screen the site from neighbors and from the public view. The Planning Board shall require the applicant to plant vegetation or place fencing or screening within the buffer strip areas, whether or not the strip area has been altered, if necessary to screen the site from neighbors and from public view.

F. Amend Section XIII Permit Standards, by repealing paragraph (L), and addition paragraph (R) to read as follows:

(R) All standards of the Site Plan review Ordinance shall be met.

G. Amend Section XIV Appeals by repealing and replacing it to read as follows:

XIV Appeals

Appeals shall be as provided under the Site Plan Review Ordinance.

H. Amend Section XV Violations and Enforcement and Section XVI Penalties by repealing and replacing them to read as follows:

XV Violations, Enforcement and Penalties

Violations, Enforcement, and Penalties shall be as provided in the Site Plan Review Ordinance.



TOWN OF BREMEN
PO BOX 171, 208 WALDOBORO RD
BREMEN, MAINE 04551
(207) 529-5945 • FAX (207) 529-6302

MUNICIPALITY OF BREMEN
EXTENSION OF MORATORIUM ORDINANCE ON RETAIL MARIJUANA
ESTABLISHMENTS AND RETAIL MARIJUANA STORES AND RETAIL
MARIJUANA SOCIAL CLUBS

Enacted: June 29, 2017

Certified by:



Kelly A. Clancy
Deputy Town Clerk





TOWN OF BREMEN
PO BOX 171, 208 WALDOBORO RD
BREMEN, MAINE 04551
(207) 529-5945 • FAX (207) 529-6302

**MUNICIPALITY OF BREMEN
EXTENSION OF MORATORIUM ORDINANCE ON RETAIL MARIJUANA
ESTABLISHMENTS AND RETAIL MARIJUANA STORES AND RETAIL
MARIJUANA SOCIAL CLUBS**

The Town of Bremen Selectmen hereby ordain that the Moratorium Ordinance on Retail Marijuana Establishments and Retail Marijuana Social Clubs enacted on January 5, 2017, and effective as of January 5, 2017, by, and hereby is, extended as follows:

WHEREAS, a Moratorium Ordinance on Retail Marijuana Establishments and Retail Marijuana Social Clubs was enacted by the Board of Selectmen on January 5, 2017, and became effective on January 5, 2017, for a period of one hundred and eighty (180) days from the date of applicability of the Moratorium (i.e., until July 5, 2017); and

WHEREAS, a ballot initiative to legalize, regulate, and tax marijuana for non-medicinal purposes, known as the "Marijuana Legalization Act" and codified in the Maine Revised Statutes as Chapter 417 of Title 7 ("the Act"), was the subject of a statewide referendum election on November 8, 2016; and

WHEREAS, the results of the ballot initiative were certified by the Secretary of State and subsequently proclaimed by the Governor on December 31, 2016, and the Act became law effective on January 30, 2017; and

WHEREAS, applicable as of January 30, 2017, the Maine Legislature amended the Act to reflect that its operative provisions – including the provisions pertaining to State licensing and municipal regulation – do not become effective until February 1, 2018; and

WHEREAS, pursuant to the Act, the State of Maine licensing authority must adopt rules for the proper regulation and control of the cultivation, manufacture, distribution, sale and testing of retail marijuana and retail marijuana products and for the enforcement of the Act on or before October 30, 2017; and

WHEREAS, the Maine Legislature's Joint Select Committee on Marijuana Legalization Implementation is working to help guide the state agencies that will craft the rules and regulations around the recreational marijuana industry; and

WHEREAS, the State of Maine licensing authority that is to draft the rules and regulations around the recreational marijuana industry has not done so yet; and

WHEREAS, the Town needs to know the State of Maine regulatory framework for the recreational marijuana industry before it can determine the land use and other regulatory implications of retail marijuana establishments and social clubs and consider what locations, if any, and conditions of approval, if any, might be appropriate for such uses; and

WHEREAS, the problems giving rise to the need for the moratorium still exist and reasonable progress is being made to alleviate the problems;

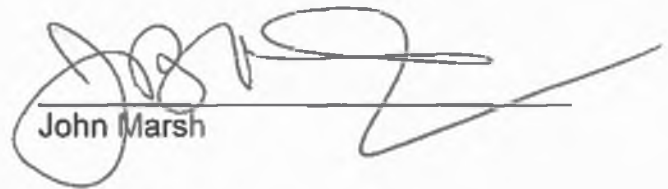
NOW, THEREFORE, be it ordained by the Selectmen of the Town of Bremen, that all provisions of the Moratorium Ordinance on Retail Marijuana Establishments and retail Marijuana Social Clubs ae hereby extended for an additional one hundred and eighty (180) days (i.e., January 5, 2018).

ENACTED: June 29, 2017

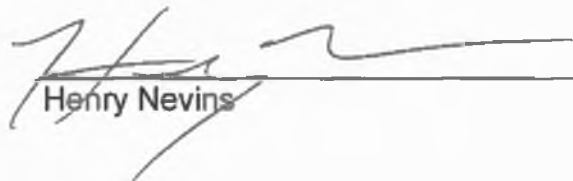
BOARD OF SELECTMEN



Wendy Pieh, Chair



John Marsh



Henry Nevins

**FLOODPLAIN MANAGEMENT ORDINANCE
FOR THE
TOWN OF BREMEN, MAINE**

ENACTED: _____
Date

EFFECTIVE: 6-18-15
Date

CERTIFIED BY: W.P.P.
Signature

CERTIFIED BY: Wendy Pich
Print Name

Selectman
Title

Affix Seal

FLOODPLAIN MANAGEMENT ORDINANCE

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ARTICLE I-PURPOSE AND ESTABLISHMENT

Certain areas of the Town of Bremen, Maine are subject to periodic flooding, causing serious damages to properties within these areas. Relief is available in the form of flood insurance as authorized by the National Flood Insurance Act of 1968.

Therefore, the Town of Bremen, Maine has chosen to become a participating community in the National Flood Insurance Program, and agrees to comply with the requirements of the National Flood Insurance Act of 1968 (P.L. 90-488, as amended) as delineated in this Floodplain Management Ordinance.

It is the intent of the Town of Bremen, Maine to require the recognition and evaluation of flood hazards in all official actions relating to land use in the floodplain areas having special flood hazards.

The Town of Bremen has the legal authority to adopt land use and control measures to reduce future flood losses pursuant to Title 30-A MRSA, Sections 3001-3007, 4352, 4401-4407, and Title 38 MRSA, Section 440.

The National Flood Insurance Program, established in the aforesaid Act, provides that areas of the Town of Bremen having a special flood hazard be identified by the Federal Emergency Management Agency and that floodplain management measures be applied in such flood hazard areas. This Ordinance establishes a Flood Hazard Development Permit system and review procedure for development activities in the designated flood hazard areas of the Town of Bremen, Maine.

The areas of special flood hazard, Zones A, AE, and VE for the Town of Bremen, Lincoln County, Maine, identified by the Federal Emergency Management Agency in a report entitled "Flood Insurance Study – Lincoln County, Maine," dated July 16, 2015 with accompanying "Flood Insurance Rate Map" dated July 16, 2015 with panels: 279D, 283D, 287D, 288D, 289D, 291D, 292D, 293D, 294D, 313D, 377D, 379D, 380D, 381D, 382D, 383D, 384D, and 401D derived from the county wide digital Flood Insurance Rate Map entitled "Digital Flood Insurance Rate Map, Lincoln County, Maine," are hereby adopted by reference and declared to be a part of this Ordinance.

ARTICLE II - PERMIT REQUIRED

Before any construction or other development (as defined in Article XIV), including the placement of manufactured homes, begins within any areas of special flood hazard established in Article I, a Flood Hazard Development Permit shall be obtained from the Planning Board except as provided in Article VII. This permit shall be in addition to any other permits which may be required pursuant to the codes and ordinances of the Town of Bremen, Maine.

ARTICLE III - APPLICATION FOR PERMIT

The application for a Flood Hazard Development Permit shall be submitted to the Planning Board and shall include:

- A. The name, address and phone number of the applicant, owner, and contractor;
- B. An address and a map indicating the location of the construction site;

- C. A site plan showing location of existing and/or proposed development, including but not limited to structures, sewage disposal facilities, water supply facilities, areas to be cut and filled, and lot dimensions;
 - D. A statement of the intended use of the structure and/or development;
 - E. A statement of the cost of the development including all materials and labor;
 - F. A statement as to the type of sewage system proposed;
 - G. Specification of dimensions of the proposed structure and/or development;
- [Items H-K.3. apply only to new construction and substantial improvements.]
- H. The elevation in relation to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD), or to a locally established datum in Zone A only, of the:
 - 1. base flood at the proposed site of all new or substantially improved structures, which is determined:
 - a. in Zones AE and VE from data contained in the "Flood Insurance Study - Lincoln County, Maine," as described in Article I; or,
 - b. in Zone A:
 - (1) from any base flood elevation data from federal, state, or other technical sources (such as FEMA's Quick-2 model, FEMA 265), including information obtained pursuant to Article VI.K. and IX.D.;
 - (2) from the contour elevation extrapolated from a best fit analysis of the floodplain boundary when overlaid onto a USGS Quadrangle Map or other topographic map prepared by a Professional Land Surveyor or registered professional engineer, if the floodplain boundary has a significant correlation to the elevation contour line(s); or, in the absence of all other data,
 - (3) to be the elevation of the ground at the intersection of the floodplain boundary and a line perpendicular to the shoreline which passes along the ground through the site of the proposed building.
 - 2. highest and lowest grades at the site adjacent to the walls of the proposed building;
 - 3. lowest floor, including basement; and whether or not such structures contain a basement; and,
 - 4. level, in the case of non-residential structures only, to which the structure will be floodproofed;

- I. A description of an elevation reference point established on the site of all developments for which elevation standards apply as required in Article VI;
- J. A written certification by a Professional Land Surveyor, registered professional engineer or architect, that the base flood elevation and grade elevations shown on the application are accurate
- K. The following certifications as required in Article VI by a registered professional engineer or architect:
 - 1. a Floodproofing Certificate (FEMA Form 81-65, as amended), to verify that the floodproofing methods for any non-residential structures will meet the floodproofing criteria of Article III.H.4.; Article VI.G.; and other applicable standards in Article VI;
 - 2. a V-Zone Certificate to verify that the construction in coastal high hazard areas, Zone VE, will meet the criteria of Article VI.P.; and other applicable standards in Article VI;
 - 3. a Hydraulic Openings Certificate to verify that engineered hydraulic openings in foundation walls will meet the standards of Article VI.L.2.a.;
 - 4. a certified statement that bridges will meet the standards of Article VI.M.;
 - 5. a certified statement that containment walls will meet the standards of Article VI.N.;
- L. A description of the extent to which any water course will be altered or relocated as a result of the proposed development; and,
- M. A statement of construction plans describing in detail how each applicable development standard in Article VI will be met.

ARTICLE IV - APPLICATION FEE AND EXPERT'S FEE

A non-refundable application fee of \$30.00 shall be paid to the Town Clerk and a copy of a receipt for the same shall accompany the application.

An additional fee may be charged if the Planning Board and/or Board of Appeals needs the assistance of a professional engineer or other expert. The expert's fee shall be paid in full by the applicant within 10 days after the town submits a bill to the applicant. Failure to pay the bill shall constitute a violation of the ordinance and be grounds for the issuance of a stop work order. An expert shall not be hired by the municipality at the expense of an applicant until the applicant has either consented to such hiring in writing or been given an opportunity to be heard on the subject. An applicant who is dissatisfied with a decision to hire expert assistance may appeal that decision to the Board of Appeals.

ARTICLE V - REVIEW STANDARDS FOR FLOOD HAZARD DEVELOPMENT PERMIT APPLICATIONS

The Planning Board shall:

- A. Review all applications for the Flood Hazard Development Permit to assure that proposed developments are reasonably safe from flooding and to determine that all pertinent requirements of Article VI (Development Standards) have been, or will be met;
- B. Utilize, in the review of all Flood Hazard Development Permit applications:
 - 1. the base flood and floodway data contained in the "Flood Insurance Study – Lincoln County, Maine," as described in Article I.;
 - 2. in special flood hazard areas where base flood elevation and floodway data are not provided, the Planning Board shall obtain, review and reasonably utilize any base flood elevation and floodway data from federal, state, or other technical sources, including information obtained pursuant to Article III.H.1.b.; Article VI.K.; and Article IX.D., in order to administer Article VI of this Ordinance; and,
 - 3. when the community establishes a base flood elevation in a Zone A by methods outlined in Article III.H.1.b., the community shall submit that data to the Maine Floodplain Management Program.
- C. Make interpretations of the location of boundaries of special flood hazard areas shown on the maps described in Article I of this Ordinance;
- D. In the review of Flood Hazard Development Permit applications, determine that all necessary permits have been obtained from those federal, state, and local government agencies from which prior approval is required by federal or state law, including but not limited to Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1344;
- E. Notify adjacent municipalities, the Department of Environmental Protection, and the Maine Floodplain Management Program prior to any alteration or relocation of a water course and submit copies of such notifications to the Federal Emergency Management Agency;
- F. If the application satisfies the requirements of this Ordinance, approve the issuance of one of the following Flood Hazard Development Permits, based on the type of development:
 - 1. A two-part Flood Hazard Development Permit for elevated structures. Part I shall authorize the applicant to build a structure to and including the first horizontal floor only above the base flood level. At that time the applicant shall provide the Code Enforcement Officer with a Elevation Certificate completed by a Professional Land Surveyor, registered professional engineer or architect based on the Part I permit construction, "as built", for verifying compliance with the elevation requirements of Article VI, paragraphs F, G, H, or P. Following review of the Elevation Certificate data, which shall take place within 72 hours of receipt of the application, the Code Enforcement Officer shall issue Part II of the Flood Hazard Development Permit. Part II shall authorize the applicant to complete the construction project; or,
 - 2. A Flood Hazard Development Permit for Floodproofing of Non-Residential Structures that are new construction or substantially improved non-residential structures that are not being elevated

but that meet the floodproofing standards of Article VI.G.1.a., b., and c. The application for this permit shall include a Floodproofing Certificate signed by a registered professional engineer or architect; or,

3. A Flood Hazard Development Permit for Minor Development for all development that is not new construction or a substantial improvement, such as repairs, maintenance, renovations, or additions, whose value is less than 50% of the market value of the structure. Minor development also includes, but is not limited to: accessory structures as provided for in Article VI.J., mining, dredging, filling, grading, paving, excavation, drilling operations, storage of equipment or materials, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities that do not involve structures; and non-structural projects such as bridges, dams, towers, fencing, pipelines, wharves, and piers.

For development that requires review and approval as a Conditional Use, as provided for in this Ordinance, the Flood Hazard Development Permit Application shall be acted upon by the Planning Board as required in Article VII.

- G. Maintain, as a permanent record, copies of all Flood Hazard Development Permit Applications, corresponding Permits issued, and data relevant thereto, including reports of the Board of Appeals on variances granted under the provisions of Article X of this Ordinance, and copies of Elevation Certificates, Floodproofing Certificates, Certificates of Compliance and certifications of design standards required under the provisions of Articles III, VI, and VIII of this Ordinance.

ARTICLE VI - DEVELOPMENT STANDARDS

All developments in areas of special flood hazard shall meet the following applicable standards:

A. All Development - All development shall:

1. be designed or modified and adequately anchored to prevent flotation (excluding piers and docks), collapse or lateral movement of the development resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
2. use construction materials that are resistant to flood damage;
3. use construction methods and practices that will minimize flood damage; and
4. use electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities that are designed and/or located to prevent water from entering or accumulating within the components during flooding conditions.

B. Water Supply - All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems.

- C. **Sanitary Sewage Systems** - All new and replacement sanitary sewage systems shall be designed and located to minimize or eliminate infiltration of flood waters into the system and discharges from the system into flood waters.
- D. **On Site Waste Disposal Systems** – On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during floods.
- E. **Watercourse Carrying Capacity** - All development associated with altered or relocated portions of a watercourse shall be constructed and maintained in such a manner that no reduction occurs in the flood carrying capacity of the watercourse.
- F. **Residential** - New construction or substantial improvement of any residential structure located within:
 - 1. Zone AE shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation.
 - 2. Zone A shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.1.b.; Article V.B.; or Article IX.D.
 - 3. Zone VE shall meet the requirements of Article VI.P.
- G. **Non Residential** - New construction or substantial improvement of any non-residential structure located within:
 - 1. Zone AE shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation, or together with attendant utility and sanitary facilities shall:
 - a. be floodproofed to at least one foot above the base flood elevation so that below that elevation the structure is watertight with walls substantially impermeable to the passage of water;
 - b. have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and,
 - c. be certified by a registered professional engineer or architect that the floodproofing design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a Flood Hazard Development Permit, as required by Article III.K. and shall include a record of the elevation above mean sea level to which the structure is floodproofed.
 - 2. Zone A shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.1.b.; Article V.B.; or Article IX.D., or

- a. together with attendant utility and sanitary facilities meet the floodproofing standards of Article VI.G.1.

3. Zone VE shall meet the requirements of Article VI.P.

H. **Manufactured Homes** - New or substantially improved manufactured homes located within:

1. Zone AE shall:

- a. be elevated such that the lowest floor (including basement) of the manufactured home is at least one foot above the base flood elevation;
- b. be on a permanent foundation, which may be poured masonry slab or foundation walls, with hydraulic openings, or may be reinforced piers or block supports, any of which support the manufactured home so that no weight is supported by its wheels and axles; and,
- c. be securely anchored to an adequately anchored foundation system to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to:
 - (1) over-the-top ties anchored to the ground at the four corners of the manufactured home, plus two additional ties per side at intermediate points (manufactured homes less than 50 feet long require one additional tie per side); or by,
 - (2) frame ties at each corner of the home, plus five additional ties along each side at intermediate points (manufactured homes less than 50 feet long require four additional ties per side).
 - (3) all components of the anchoring system described in Article VI.H.1.c.(1) & (2) shall be capable of carrying a force of 4800 pounds.

2. Zone A shall:

- a. be elevated on a permanent foundation, as described in Article VI.H.1.b., such that the lowest floor (including basement) of the manufactured home is at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.1.b.; Article V.B; or Article IX.D.; and
- b. meet the anchoring requirements of Article VI.H.1.c.

3. Zone VE shall meet the requirements of Article VI.P.

I. **Recreational Vehicles** - Recreational Vehicles located within:

1. Zones A and AE shall either:

- a. be on the site for fewer than 180 consecutive days,

- b. be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or,
 - c. be permitted in accordance with the elevation and anchoring requirements for "manufactured homes" in Article VI.H.1.
 - 2. Zone VE shall meet the requirements of either Article VI.I.1.a. and b., or Article VI.P.
- J. **Accessory Structures** - Accessory Structures, as defined in Article XIV, located within Zones AE and A, shall be exempt from the elevation criteria required in Article VI.F. & G. above, if all other requirements of Article VI and all the following requirements are met. Accessory Structures shall:
- 1. be 500 square feet or less and have a value less than \$3000;
 - 2. have unfinished interiors and not be used for human habitation;
 - 3. have hydraulic openings, as specified in Article VI.L.2., in at least two different walls of the accessory structure;
 - 4. be located outside the floodway;
 - 5. when possible be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters and be placed further from the source of flooding than is the primary structure; and,
 - 6. have only ground fault interrupt electrical outlets. The electric service disconnect shall be located above the base flood elevation and when possible outside the Special Flood Hazard Area.
- K. **Floodways** -
- 1. In Zone AE riverine areas, encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted within a regulatory floodway which is designated on the community's Flood Insurance Rate Map unless a technical evaluation certified by a registered professional engineer is provided demonstrating that such encroachments will not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
 - 2. In Zones AE and A riverine areas, for which no regulatory floodway is designated, encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted in the floodway as determined in Article VI.K.3. unless a technical evaluation certified by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing development and anticipated development:

- a. will not increase the water surface elevation of the base flood more than one foot at any point within the community; and,
 - b. is consistent with the technical criteria contained in FEMA's guidelines and standards for flood risk analysis and mapping.
3. In Zones AE and A riverine areas, for which no regulatory floodway is designated, the regulatory floodway is determined to be the channel of the river or other water course and the adjacent land areas to a distance of one-half the width of the floodplain as measured from the normal high water mark to the upland limit of the floodplain.
- L. **Enclosed Areas Below the Lowest Floor** - New construction or substantial improvement of any structure in Zones AE and A that meets the development standards of Article VI, including the elevation requirements of Article VI, paragraphs F, G, or H and is elevated on posts, columns, piers, piles, "stilts," or crawl spaces may be enclosed below the base flood elevation requirements provided all the following criteria are met or exceeded:
- 1. Enclosed areas are not "basements" as defined in Article XIV;
 - 2. Enclosed areas shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood water. Designs for meeting this requirement must either:
 - a. be engineered and certified by a registered professional engineer or architect; or,
 - b. meet or exceed the following minimum criteria:
 - (1) a minimum of two openings having a total net area of not less than one square inch for every square foot of the enclosed area;
 - (2) the bottom of all openings shall be below the base flood elevation and no higher than one foot above the lowest grade; and,
 - (3) openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the entry and exit of flood waters automatically without any external influence or control such as human intervention, including the use of electrical and other non-automatic mechanical means;
 - 3. The enclosed area shall not be used for human habitation; and,
 - 4. The enclosed areas are usable solely for building access, parking of vehicles, or storage.
- M. **Bridges** - New construction or substantial improvement of any bridge in Zones AE, A, and VE shall be designed such that:

1. when possible, the lowest horizontal member (excluding the pilings, or columns) is elevated to at least one foot above the base flood elevation; and
 2. a registered professional engineer shall certify that:
 - a. the structural design and methods of construction shall meet the elevation requirements of this section and the floodway standards of Article VI.K.; and
 - b. the foundation and superstructure attached thereto are designed to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all structural components. Water loading values used shall be those associated with the base flood.
- N. Containment Walls** - New construction or substantial improvement of any containment wall located within:
1. Zones AE, A, and VE shall:
 - a. have the containment wall elevated to at least one foot above the base flood elevation;
 - b. have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and,
 - c. be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a Flood Hazard Development Permit, as required by Article III.K.
- O. Wharves, Piers and Docks** - New construction or substantial improvement of wharves, piers, and docks are permitted in Zones AE, A, and VE, in and over water and seaward of the mean high tide if the following requirements are met:
1. wharves, piers, and docks shall comply with all applicable local, state, and federal regulations; and
 2. for commercial wharves, piers, and docks, a registered professional engineer shall develop or review the structural design, specifications, and plans for the construction.
- P. Coastal Floodplains** -
1. All new construction located within Zones AE and VE shall be located landward of the reach of mean high tide except as provided in Article VI.P.6.
 2. New construction or substantial improvement of any structure located within Zone VE shall:
 - a. be elevated on posts or columns such that:

- (1) the bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated to one foot above the base flood elevation;
 - (2) the pile or column foundation and the elevated portion of the structure attached thereto is anchored to resist flotation, collapse, and lateral movement due to the effects of wind and water loads acting simultaneously on all building components; and,
 - (3) water loading values used shall be those associated with the base flood. Wind loading values used shall be those required by applicable state and local building standards.
- b. have the space below the lowest floor:
- (1) free of obstructions; or,
 - (2) constructed with open wood lattice-work, or insect screening intended to collapse under wind and water without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting piles or columns; or,
 - (3) constructed to enclose less than 300 square feet of area with non-supporting breakaway walls that have a design safe loading resistance of not less than 10 or more than 20 pounds per square foot.
- c. require a registered professional engineer or architect to:
- (1) develop or review the structural design, specifications, and plans for the construction, which must meet or exceed the technical criteria contained in the *Coastal Construction Manual*, (FEMA-55); and,
 - (2) certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the criteria of Article VI.P.2.
3. The use of fill for structural support in Zone VE is prohibited.
 4. Human alteration of sand dunes within Zone VE is prohibited unless it can be demonstrated that such alterations will not increase potential flood damage.
 5. The area below the lowest floor shall be used solely for parking vehicles, building access, and storage.
 6. Conditional Use - Lobster sheds and fishing sheds may be located seaward of mean high tide and shall be exempt from the elevation requirement in Article VI.G. only if permitted as a Conditional Use following review and approval by the Planning Board, as provided in Article VII, and if all the following requirements and those of Article VI.A., VI.K., and VI.L. are met:

- a. The conditional use shall be limited to low value structures such as metal or wood sheds 200 square feet or less and shall not exceed more than one story.
- b. The structure shall be securely anchored to the wharf or pier to resist flotation, collapse, and lateral movement due to the effect of wind and water loads acting simultaneously on all building components.
- c. The structure will not adversely increase wave or debris impact forces affecting nearby buildings.
- d. The structure shall have unfinished interiors and shall not be used for human habitation.
- e. Any mechanical, utility equipment and fuel storage tanks must be anchored and either elevated or floodproofed to one foot above the base flood elevation.
- f. All electrical outlets shall be ground fault interrupt type. The electrical service disconnect shall be located on shore above the base flood elevation and when possible outside the Special Flood Hazard Area.

ARTICLE VII - CONDITIONAL USE REVIEW

The Planning Board shall hear and decide upon applications for conditional uses provided for in this Ordinance. The Planning Board shall hear and approve, approve with conditions, or disapprove all applications for conditional uses. An applicant informed by the Planning Board that a Conditional Use Permit is required shall file an application for the permit with the Planning Board.

A. Review Procedure for a Conditional Use Flood Hazard Development Permit

1. The Flood Hazard Development Permit Application with additional information attached addressing how each of the conditional use criteria specified in the Ordinance will be satisfied, may serve as the permit application for the Conditional Use Permit.
2. Before deciding any application, the Planning Board shall hold a public hearing on the application within thirty days of their receipt of the application.
3. If the Planning Board finds that the application satisfies all relevant requirements of the ordinance, the Planning Board must approve the application or approve with conditions within 45 days of the date of the public hearing.
4. A Conditional Use Permit issued under the provisions of this Ordinance shall expire if the work or change involved is not commenced within 180 days of the issuance of the permit by the Planning Board.
5. The applicant shall be notified by the Planning Board in writing over the signature of the Chairman of the Planning Board that flood insurance is not available for structures located entirely over water or seaward of mean high tide.

B. Expansion of Conditional Uses

1. No existing building or use of premises may be expanded or enlarged without a permit issued under this section if that building or use was established or constructed under a previously issued Conditional Use Permit or if it is a building or use which would require a Conditional Use Permit if being newly-established or constructed under this Ordinance.

ARTICLE VIII - CERTIFICATE OF COMPLIANCE

No land in a special flood hazard area shall be occupied or used and no structure which is constructed or substantially improved shall be occupied until a Certificate of Compliance is issued by the Code Enforcement Officer subject to the following provisions:

- A. For New Construction or Substantial Improvement of any elevated structure the applicant shall submit to the Code Enforcement Officer:
 1. an Elevation Certificate completed by a Professional Land Surveyor, registered professional engineer, or architect, for compliance with Article VI, paragraphs F, G, H, or P and,
 2. for structures in Zone VE, certification by a registered professional engineer or architect that the design and methods of construction used are in compliance with Article VI.P.2.
- B. The applicant shall submit written notification to the Code Enforcement Officer that the development is complete and complies with the provisions of this ordinance.
- C. Within 10 working days, the Code Enforcement Officer shall:
 1. review the required certificate(s) and the applicant's written notification; and,
 2. upon determination that the development conforms to the provisions of this ordinance, shall issue a Certificate of Compliance.

ARTICLE IX - REVIEW OF SUBDIVISION AND DEVELOPMENT PROPOSALS

The Planning Board shall, when reviewing subdivisions and other proposed developments that require review under other federal law, state law, local ordinances or regulations, and all projects on 5 or more disturbed acres, or in the case of manufactured home parks divided into two or more lots, assure that:

- A. All such proposals are consistent with the need to minimize flood damage.
- B. All public utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damages.
- C. Adequate drainage is provided in order to reduce exposure to flood hazards.

- D. All proposals include base flood elevations, flood boundaries, and, in a riverine floodplain, floodway data. These determinations shall be based on engineering practices recognized by the Federal Emergency Management Agency.
- E. Any proposed development plan must include a condition of plan approval requiring that structures on any lot in the development having any portion of its land within a Special Flood Hazard Area, are to be constructed in accordance with Article VI of this ordinance. Such requirement will be included in any deed, lease, purchase and sale agreement, or document transferring or expressing an intent to transfer any interest in real estate or structure, including but not limited to a time-share interest. The condition shall clearly articulate that the municipality may enforce any violation of the construction requirement and that fact shall also be included in the deed or any other document previously described. The construction requirement shall also be clearly stated on any map, plat, or plan to be signed by the Planning Board or local reviewing authority as part of the approval process.

ARTICLE X - APPEALS AND VARIANCES

The Board of Appeals of the Town of Bremen may, upon written application of an aggrieved party, hear and decide appeals where it is alleged that there is an error in any order, requirement, decision, or determination made by, or failure to act by, the Code Enforcement Officer or Planning Board in the administration or enforcement of the provisions of this Ordinance.

The Board of Appeals may grant a variance from the requirements of this Ordinance consistent with state law and the following criteria:

- A. Variances shall not be granted within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.
- B. Variances shall be granted only upon:
 - 1. a showing of good and sufficient cause; and,
 - 2. a determination that should a flood comparable to the base flood occur, the granting of a variance will not result in increased flood heights, additional threats to public safety, public expense, or create nuisances, cause fraud or victimization of the public or conflict with existing local laws or ordinances; and,
 - 3. a showing that the issuance of the variance will not conflict with other state, federal or local laws or ordinances; and,
 - 4. a determination that failure to grant the variance would result in "undue hardship," which in this sub-section means:
 - a. that the land in question cannot yield a reasonable return unless a variance is granted; and,
 - b. that the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood; and,

- c. that the granting of a variance will not alter the essential character of the locality; and,
 - d. that the hardship is not the result of action taken by the applicant or a prior owner.
- C. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief, and the Board of Appeals may impose such conditions to a variance as is deemed necessary.
- D. Variances may be issued for new construction, substantial improvements, or other development for the conduct of a functionally dependent use provided that:
 - 1. other criteria of Article X and Article VI.K. are met; and,
 - 2. the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.
- E. Variances may be issued for the repair, reconstruction, rehabilitation, or restoration of Historic Structures upon the determination that:
 - 1. the development meets the criteria of Article X, paragraphs A. through D. above; and,
 - 2. the proposed repair, reconstruction, rehabilitation, or restoration will not preclude the structure's continued designation as a Historic Structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- F. Any applicant who meets the criteria of Article X, paragraphs A. through E. shall be notified by the Board of Appeals in writing over the signature of the Chairman of the Board of Appeals that:
 - 1. the issuance of a variance to construct a structure below the base flood level will result in greatly increased premium rates for flood insurance up to amounts as high as \$25 per \$100 of insurance coverage;
 - 2. such construction below the base flood level increases risks to life and property; and,
 - 3. the applicant agrees in writing that the applicant is fully aware of all the risks inherent in the use of land subject to flooding, assumes those risks and agrees to indemnify and defend the municipality against any claims filed against it that are related to the applicant's decision to use land located in a floodplain and that the applicant individually releases the municipality from any claims the applicant may have against the municipality that are related to the use of land located in a floodplain.
- G. Appeal Procedure for Administrative and Variance Appeals

1. An administrative or variance appeal may be taken to the Board of Appeals by an aggrieved party within thirty days after receipt of a written decision of the Code Enforcement Officer or Planning Board.
2. Upon being notified of an appeal, the Code Enforcement Officer or Planning Board, as appropriate, shall transmit to the Board of Appeals all of the papers constituting the record of the decision appealed from.
3. The Board of Appeals shall hold a public hearing on the appeal within thirty-five days of its receipt of an appeal request.
4. The person filing the appeal shall have the burden of proof.
5. The Board of Appeals shall decide all appeals within thirty-five days after the close of the hearing, and shall issue a written decision on all appeals.
6. The Board of Appeals shall submit to the Code Enforcement Officer and Planning Board a report of all variance actions, including justification for the granting of the variance and an authorization for the Planning Board to issue a Flood Hazard Development Permit, which includes any conditions to be attached to said permit.
7. Any aggrieved party who participated as a party during the proceedings before the Board of Appeals may take an appeal to Superior Court in accordance with State laws within forty-five days from the date of any decision of the Board of Appeals.

ARTICLE XI - ENFORCEMENT AND PENALTIES

- A. It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance pursuant to Title 30-A MRSA § 4452.
- B. The penalties contained in Title 30-A MRSA § 4452 shall apply to any violation of this Ordinance.
- C. In addition to other actions, the Code Enforcement Officer may, upon identifying a violation, submit a declaration to the Administrator of the Federal Insurance Administration requesting a flood insurance denial. The valid declaration shall consist of:
 1. the name of the property owner and address or legal description of the property sufficient to confirm its identity or location;
 2. a clear and unequivocal declaration that the property is in violation of a cited State or local law, regulation, or ordinance;
 3. a clear statement that the public body making the declaration has authority to do so and a citation to that authority;

4. evidence that the property owner has been provided notice of the violation and the prospective denial of insurance; and,
5. a clear statement that the declaration is being submitted pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.

ARTICLE XII - VALIDITY AND SEVERABILITY

If any section or provision of this Ordinance is declared by the courts to be invalid, such decision shall not invalidate any other section or provision of this Ordinance.

ARTICLE XIII - CONFLICT WITH OTHER ORDINANCES

This Ordinance shall not in any way impair or remove the necessity of compliance with any other applicable rule, ordinance, regulation, bylaw, permit, or provision of law. Where this Ordinance imposes a greater restriction upon the use of land, buildings, or structures, the provisions of this Ordinance shall control.

ARTICLE XIV - DEFINITIONS

Unless specifically defined below, words and phrases used in this Ordinance shall have the same meaning as they have at common law, and to give this Ordinance its most reasonable application. Words used in the present tense include the future, the singular number includes the plural, and the plural number includes the singular. The word "may" is permissive; "shall" is mandatory and not discretionary.

Accessory Structure - a small detached structure that is incidental and subordinate to the principal structure.

Adjacent Grade - the natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Area of Special Flood Hazard - land in the floodplain having a one percent or greater chance of flooding in any given year, as specifically identified in the Flood Insurance Study cited in Article I of this Ordinance.

Base Flood – a flood having a one percent chance of being equaled or exceeded in any given year, commonly called the 100-year flood.

Basement - area of a building that includes a floor that is subgrade (below ground level) on all sides.

Breakaway Wall - a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

Building - see **Structure**.

Certificate of Compliance - a document signed by the Code Enforcement Officer stating that a structure is in compliance with all of the provisions of this Ordinance.

Code Enforcement Officer – a person certified under Title 30-A M.R.S.A., Section 4451 (including exceptions in Section 4451, paragraph 1) and employed by a municipality to enforce all applicable comprehensive planning and land use laws.

Conditional Use - a use that, because of its potential impact on surrounding areas and structures, is permitted only upon review and approval by the Planning Board pursuant to Article VII.

Containment Wall – wall used to convey or direct storm water or sanitary water from the initial source to the final destination.

Development – a manmade change to improved or unimproved real estate. This includes, but is not limited to, buildings or other structures; mining, dredging, filling, grading, paving, excavation, drilling operations or storage of equipment or materials; and the storage, deposition, or extraction of materials.

Digital Flood Insurance Rate Map (FIRM) – see **Flood Insurance Rate Map**

Elevated Building - a non-basement building that is:

- a. built, in the case of a building in Zones AE or A, so that the top of the elevated floor, or in the case of a building in Zone VE, to have the bottom of the lowest horizontal structural member of the elevated floor, elevated above the ground level by means of pilings, columns, post, piers, or "stilts;" and
- b. adequately anchored to not impair the structural integrity of the building during a flood of up to one foot above the magnitude of the base flood.

In the case of Zones AE or A, **Elevated Building** also includes a building elevated by means of fill or solid foundation perimeter walls with hydraulic openings sufficient to facilitate the unimpeded movement of flood waters, as required in Article VI.L. In the case of Zone VE, **Elevated Building** also includes a building otherwise meeting the definition of elevated building, even though the lower area is enclosed by means of breakaway walls, if the breakaway walls meet the standards of Article VI.P.2.b.(3).

Elevation Certificate - an official form (FEMA Form 81-31, as amended) that:

- a. is used to verify compliance with the floodplain management regulations of the National Flood Insurance Program; and,
- b. is required for purchasing flood insurance.

Flood or Flooding

- a. A general and temporary condition of partial or complete inundation of normally dry land areas from:
 1. The overflow of inland or tidal waters.
 2. The unusual and rapid accumulation or runoff of surface waters from any source.

- b. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph a.1. of this definition.

Flood Elevation Study - an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations.

Flood Insurance Rate Map (FIRM) - an official map of a community, on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community.

Flood Insurance Study - see **Flood Elevation Study**.

Floodplain or Floodprone Area - land area susceptible to being inundated by water from any source (see flooding).

Floodplain Management - means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, and floodplain management regulations.

Floodplain Management Regulations - zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance, and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

Floodproofing - any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and contents.

Floodway - see **Regulatory Floodway**.

Floodway Encroachment Lines - the lines marking the limits of floodways on federal, state, and local floodplain maps.

Freeboard - a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. Freeboard tends to compensate for the many unknown factors, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed, which could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions.

Functionally Dependent Use - a use that cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

Historic Structure - means any structure that is:

- a. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary of the Interior to qualify as a registered historic district;
- c. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- d. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - 1. By an approved state program as determined by the Secretary of the Interior, or
 - 2. Directly by the Secretary of the Interior in states without approved programs.

Locally Established Datum - for purposes of this ordinance, an elevation established for a specific site to which all other elevations at the site are referenced. This elevation is generally not referenced to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD) or any other established datum and is used in areas where Mean Sea Level data is too far from a specific site to be practically used.

Lowest Floor - the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements described in Article VI.L. of this Ordinance.

Manufactured Home - a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term manufactured home also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days.

Manufactured Home Park or Subdivision - a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Mean Sea Level – when related to the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD) or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

Minor Development - means all development that is not new construction or a substantial improvement, such as repairs, maintenance, renovations, or additions, whose value is less than 50% of the market value of the structure. It also includes, but is not limited to: accessory structures as provided for in Article VI.J., mining, dredging, filling, grading, paving, excavation, drilling operations, storage of equipment or materials, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities that do not involve structures; and non-structural projects such as bridges, dams, towers, fencing, pipelines, wharves, and piers.

National Geodetic Vertical Datum (NGVD) - the national vertical datum, a standard established in 1929, which is used by the National Flood Insurance Program (NFIP). NGVD is based upon mean sea level in 1929 and also has been called "1929 Mean Sea Level (MSL)".

New Construction - structures for which the "start of construction" commenced on or after the effective date of the initial floodplain management regulations adopted by a community and includes any subsequent improvements to such structures.

North American Vertical Datum (NAVD)- means the national datum whose standard was established in 1988, which is the new vertical datum used by the National Flood Insurance Program (NFIP) for all new Flood Insurance Rate Maps. NAVD is based upon vertical datum used by other North American countries such as Canada and Mexico and was established to replace NGVD because of constant movement of the earth's crust, glacial rebound, and subsidence and the increasing use of satellite technology.

100-year flood - see **Base Flood**.

Recreational Vehicle - a vehicle that is:

- a. built on a single chassis;
- b. 400 square feet or less when measured at the largest horizontal projection, not including slideouts;
- c. designed to be self-propelled or permanently towable by a motor vehicle; and
- d. designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Regulatory Floodway –

- a. the channel of a river or other water course and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot, and
- b. when not designated on the community's Flood Insurance Rate Map, it is considered to be the channel of a river or other water course and the adjacent land areas to a distance of one-half the width of the floodplain, as measured from the normal high water mark to the upland limit of the floodplain.

Riverine - relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

Special Flood Hazard Area - see **Area of Special Flood Hazard**.

Start of Construction - the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, substantial improvement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include

excavation for basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, or modification of any construction element, whether or not that alteration affects the external dimensions of the building.

Structure - means, for floodplain management purposes, a walled and roofed building. A gas or liquid storage tank that is principally above ground is also a structure.

Substantial Damage - means, damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial Improvement - means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

- a. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
- b. Any alteration of a Historic Structure, provided that the alteration will not preclude the structure's continued designation as a historic structure, and a variance is obtained from the Board of Appeals.

Variance - means a grant of relief by a community from the terms of a floodplain management regulation.

Violation - means the failure of a structure or development to comply with a community's floodplain management regulations.

ARTICLE XV - ABROGATION

This ordinance repeals and replaces any municipal ordinance previously enacted to comply with the National Flood Insurance Act of 1968 (P.L. 90-488, as amended).

60.3 (e) Rev. 01/15
Prepared by DACF/SB

General Assistance Ordinance

The Town/City of BREMEN enacts the following General Assistance Ordinance. This Ordinance is filed with the Commissioner of the Department of Human Services in compliance with Title 22 M.R.S.A. § 4305.4.

Signed the SEVENTH day of NOVEMBER, 1996
month year

by the municipal officers:

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ARTICLE I

Statement of Policy

NOTES:

The Town/City of _____ administers a program of general assistance available to all persons who are eligible to receive assistance in accordance with the standards of eligibility as provided herein and in 22 M.R.S.A. §4301 et seq.

Every effort will be made to recognize the dignity of the applicant and to encourage self-reliance. The program will help each person achieve self-maintenance and will encourage the work incentive. When possible, it will seek to alleviate needs other than financial through rehabilitative, preventive and protective services. General assistance will promote strengthening the family, especially with regard to the care and protection of children.

The general assistance program will place no restrictions on the personal rights of the applicant or recipient, nor will there be any unlawful discrimination based on sex, age, race, religion, disability or political affiliation. The applicant or recipient will be informed of his/her rights and responsibilities under the general assistance program.

The general assistance administrator will act promptly on all applications for assistance and requests for fair hearings. Within 24 hours of receiving an application, the administrator will give the applicant a written decision, whether or not assistance is granted, that will state the specific reasons for the decision. The administrator will also give the applicant written notice that the applicant may appeal to the municipal fair hearing authority if dissatisfied with the decision. When an applicant is determined to be eligible, assistance appropriate to the need will be furnished within 24 hours after the completed application is submitted except when the administrator issues non-emergency assistance conditionally on the successful completion of a workfare assignment (see section 5.6 of this ordinance).

The administrator will maintain complete and accurate records pertaining to each applicant and recipient. These records are confidential.

The administrator will post notice stating the day(s) and hours the administrator will be available. The administrator, or other designated person, will be available to take applications in the event of an emergency at all other times. A copy of this ordinance and Maine General Assistance law will be readily available to any member of the public upon request. Notice to this effect will be posted.

ARTICLE II

Definitions

Section 2.1 Common meaning of words

Unless otherwise apparent or defined, all words in this ordinance will have their common meaning.

Section 2.2 Special definitions

Applicant. A person who has submitted, either directly or through an authorized representative, an application for general assistance or who has, in an emergency, requested assistance without first completing an application. In addition, all persons on whose behalf an application has been submitted or on whose behalf benefits have been granted shall be considered applicants.

Application form. A standardized form used by the general assistance administrator for the purpose of allowing a person to apply for general assistance and confirming the fact that a person has made application. The application form must be signed by the applicant to be considered complete.

Basic necessities. Food, clothing, shelter, fuel, electricity, nonelective

NOTES:

medical services as recommended by a physician, nonprescription drugs, telephone where it is necessary for medical reasons, property taxes when a tax lien placed on the property threatens the loss of the applicant's place of residence, and any other commodity or service determined essential by the municipality. "Basic necessities" do not include security deposits for rental property, except for those situations where no other permanent lodging is available unless a security deposit is paid, and a waiver, deferral or installment arrangement cannot be made between the landlord and tenant to satisfy the need for the immediate payment of the security deposit or payment in full. (22 M.R.S.A. § 4301.1).

Case record. An official file containing application forms; correspondence; narrative records and all other communications pertaining to an applicant or recipient; written decisions regarding eligibility including reasons for those decisions as well as the types and amounts of assistance provided; and all records concerning an applicant's request for fair hearing and those fair hearing decisions.

Categorical assistance. All state and federal income maintenance programs.

Claimant. A person who has requested a fair hearing.

Deficit. An applicant's deficit is the appropriate overall maximum level of assistance for the household as provided in Section 6.8 of this ordinance less the household income as calculated pursuant to section 6.7 of this ordinance, provided such a calculation yields a positive number. If the household income is greater than the appropriate overall maximum level of assistance, the household has no deficit.

Disabled person. A person who is presently unable to work or maintain a home due to a physical or mental disability that is verified by a physician.

Dwelling unit. A building or part thereof used for separate living quarters for one or more persons living as a single housekeeping unit. (22 M.R.S.A. § 4301.2).

Eligible person. A person who is qualified to receive general assistance from the municipality according to the standards of eligibility set forth in this ordinance. (22 M.R.S.A. § 4301.3).

Emergency. Any life threatening situation or a situation beyond the control of the individual which, if not alleviated immediately, could reasonably be expected to pose a threat to the health or safety of a person. (22 M.R.S.A. §§ 4301.4, 4308.2, 4310).

General assistance program. A service administered by a municipality for the immediate aid of persons who are unable to provide the basic necessities essential to maintain themselves or their families. A general assistance program provides a specific amount and type of aid for defined needs during a limited period of time and is not intended to be a continuing "grant-in-aid" or "categorical" welfare program. This definition shall not in any way lessen the responsibility of each municipality to provide general assistance to a person each time that the person is in need and is found to be otherwise eligible to receive general assistance. (22 M.R.S.A. § 4301.5).

General assistance administrator. A municipal official designated to receive applications, make decisions concerning an applicant's right to receive assistance, and prepare records and communications concerning assistance. He or she may be an elected overseer or an authorized agent such as a town manager, welfare director, or caseworker. (22 M.R.S.A. § 4301.12).

Household. "Household" means an individual or a group of individuals who share a dwelling unit. When an applicant shares a dwelling unit with one or more individuals, even when a landlord-tenant relationship may exist between individuals residing in the dwelling unit, eligible applicants may receive assistance for no more than their pro rata share of the actual costs of the shared basic needs of that household according to the maximum levels of assistance established in the municipal ordinance. The income of household members not legally liable or otherwise responsible for support-

ing the household shall be considered as available to the applicant only when there is a pooling of income. (22 M.R.S.A. § 4301.6).

Income. "Income" means any form of income in cash or in kind received by the household including net remuneration for services performed, cash received on either secured or unsecured credit, any payments received as an annuity, retirement or disability benefits, veterans' pensions, workers' compensation, unemployment benefits, benefits under any state or federal categorical assistance program, supplemental security income, social security and any other payments from governmental sources unless specifically prohibited by any law or regulation, court ordered support payments, income from pension or trust funds, and household income from any other source, including relatives or unrelated household members.

The following items shall not be considered as income or assets which must be liquidated for the purposes of deriving income.

- 1) Real or personal income-producing property, tools of trade, governmental entitlement specifically treated as exempt assets by state or federal law;
- 2) Actual work-related expenses, whether itemized or by standard deduction, such as taxes, retirement fund contributions, union dues, transportation costs to and from work, special equipment costs and child care expenses; or
- 3) Earned income of children below the age of 18 years who are full-time students and who are not working full time.

In determining need, the period of time used as a basis for the calculation shall be a 30-day period commencing on the date of the application. This prospective calculation shall not disqualify an applicant who has exhausted income to purchase basic necessities, provided that the income does not exceed the income standards established by the municipality. (22 M.R.S.A. § 4301.7)

Just cause. A valid, verifiable reason that hinders an individual from complying with one or more conditions of eligibility. (22 M.R.S.A. §§ 4301.8, 4316-A.5)

Lump sum payment. "Lump sum payment" means a one-time or typically nonrecurring sum of money issued to an applicant or recipient after an initial application. Lump sum payment includes, but is not limited to, retroactive or settlement portions of social security benefits, workers' compensation payments, unemployment benefits, disability income, veterans' benefits, severance pay benefits, or money received from inheritances, lottery winnings, personal injury awards, property damage claims or divorce settlements. A lump sum payment includes only the amount of money available to the applicant after payment of required deductions has been made from the gross lump sum payment. A lump sum payment does not include conversion of a nonliquid resource to a liquid resource if the liquid resource has been used or is intended to be used to replace the converted resource or for other necessary expenses. The term "conversion of a non-liquid resource to a liquid resource" refers, in general, to a settlement of an insurance claim filed as a result of damaged or destroyed property. (22 M.R.S.A. § 4301.8-A).

Material Fact. A material fact is fact that necessarily has some bearing on the determination of an applicant's General Assistance eligibility, and which would, if disclosed to the administrator, have some determinable effect on the calculation of eligibility or the issuance of a grant of assistance.

Maximum levels of assistance. The amount of financial assistance for a commodity or service as established in section 6.8 of this ordinance or the actual cost of any such basic necessity, whichever is less.

Misconduct. "Misconduct" means conduct evincing such willful or wanton disregard of an employer's interest as is found in deliberate violations or disregard of standards of behavior which the employer has a right to expect of his employee, or in carelessness or negligence of such degree

or recurrence as to manifest equal culpability, wrongful intent or evil design, or to show an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to his or her employer. (26 M.R.S.A. § 1043(23)).

Municipality. Any city, town or plantation administering a general assistance program.

Municipality of responsibility. The municipality which is liable for the support of an eligible person at the time of application. (22 M.R.S.A. §§ 4301.9, 4307).

Need. The condition whereby a person's income, money, property, credit, assets or other resources available to provide basic necessities for the individual and the individual's family are less than the maximum levels of assistance. (22 M.R.S.A. §§ 4301.10, 4308).

Net general assistance costs. Those direct costs incurred by a municipality in providing assistance to eligible persons according to standards established by the municipal officers. These do not include the administrative expenses of the general assistance program. (22 M.R.S.A. §§ 4301.11, 4311).

Period of eligibility. The time for which a person has been granted assistance. The period of eligibility may vary depending on the type of assistance provided, however, in no event shall this period extend beyond one month. (22 M.R.S.A. § 4309.1).

Pooling of income. "Pooling of income" means the financial relationship among household members who are not legally liable for mutual support in which there occurs any commingling of funds or sharing of income or expenses. Municipalities may by ordinance establish as a rebuttable presumption that persons sharing the same dwelling unit are pooling their income. Applicants who are requesting that the determination of eligibility be calculated as though one or more household members are not pooling their income have the burden of rebutting the presumed pooling of income.

Real estate. Any land, buildings, homes, mobile homes and any other things affixed to the land. (22 M.R.S.A. § 4301.13).

Recipient. A person who has applied for and is currently receiving general assistance.

Resident. A person who is physically present in a municipality with the intention of remaining in that municipality in order to maintain or establish a home and who has no other residence. A person who applies for assistance in a municipality who is not a resident of that municipality or any other municipality is the responsibility of the municipality where the person first applies. That municipality must take an application and grant assistance to the applicant if he/she is eligible, until he/she establishes a new residence in another municipality (see section 4.10). (22 M.R.S.A. § 4307).

Resources. Resources include any program, service, or other sources of support which are an alternative to or supplement for general assistance. There are two kinds of resources; available and potential. Potential resources are programs, services, non-liquid assets, or trusts which typically require people to apply in writing and/or wait a period of time before eligibility is determined or the potential income is released. Potential resources include but are not limited to any state or federal assistance program, employment benefits, governmental or private pension program, available trust funds, support from legally liable relatives, child support payments, and jointly held resources where the applicant or recipient share may be available to the individual. (22 M.R.S.A. § 4317). Potential resources include the TANF/AFDC programs, Food Stamps, fuel assistance (HEAP), subsidized housing, and similar programs.

Available resources include resources which are immediately available to the applicant or which can be conveniently secured by the applicant without delay, such as cash on hand or in bank accounts, assets for which there is an immediate and available market, or support from relatives which is being made available at the time of application and for which the applicant

does not have to take any unreasonable steps to secure (e.g., relocation beyond the immediate region). Available resources also include the services, commodities or facilities made available by private organizations when 1) the applicant voluntarily agrees to utilize such services, 2) the municipality has established a contractual relationship with the private organization to provide services or commodities when requested, 3) the municipality is able to secure the services or commodities needed by an applicant from the private organization for any consideration acceptable to both the organization and the municipality, or 4) the service is available and offered at no cost to the applicant and deemed necessary by a physician, psychologist or other professional retraining or rehabilitation specialist. Charities may be considered private organizations which are available resources only if the charity places no unreasonable requirements on the applicant which are violative of the applicant's fundamental rights. *Fjeld v. Lewiston*, Andro. Sup. Ct. CV 87-4; *Bolduc v. Lewiston*, Andro, Sup. Ct. CV 87-248).

30-day Need. An applicant's 30-day need is the sum of the household's prospective 30-day costs, from the date of application, for the various basic necessities. For the purpose of this calculation, the 30-day cost for any basic need shall be the household's actual 30-day cost for the basic necessity or the maximum 30-day cost for the basic necessity as established by this ordinance, whichever is less.

Unmet Need. An applicant's unmet need is the household's 30-day need as established by Section 6.6 of the ordinance less the household income as calculated pursuant to Section 6.7 of this ordinance, provided such a calculation yields a positive number. If the household income is greater than the household's 30-day need, the household does not have an unmet need.

Work requirements. Work requirements are those obligations the municipal administrator places on applicants for general assistance as directed or authorized by 22 M.R.S.A. § 4316-A to the extent such obligations ensure a continuing potential eligibility for general assistance when complied with, result in disqualification when violated, and are not merely optional, discretionary, or advisory. Work requirements include registering for work, looking for work in good faith, accepting all suitable job offers, performing workfare, and participating in training, educational, or rehabilitation programs that will assist the participant in securing employment.

ARTICLE III

Administrative Rules and Regulations

The following are rules and regulations for the administration of general assistance.

Section 3.1 Confidentiality of Information

Case records and all other information relating to an applicant or recipient of general assistance are confidential and will not be disclosed to the general public, unless the applicant or recipient states in writing what information is to be released. (22 M.R.S.A. § 4306, *Janak v. D.H.S.*, Aroostook Cty #CV-89-116).

Release of information. Applicants, recipients and their legal representatives have the right to review their case records. No record will be released to a third party, however, unless the administrator receives a consent form signed by the applicant expressly authorizing the release of his/her records to the specified parties. Whenever the administrator releases any information, he/she will make a notation in the applicant's file stating to whom the record was released and the date. The administrator may charge a reasonable fee for the reproduction of any records when appropriate.

Information from other sources; penalty. Information furnished to the municipality by the Department of Human Services or any other agency or institution pursuant to 22 M.R.S.A. § 4314, is confidential. The general assistance administrator will also comply with laws relating to the confidentiality of records concerning birth, marriage and death. 22 M.R.S.A. § 2706.

Any representative of a financial institution (except national banks) or any employer of a general assistance applicant who refuses to provide necessary information to the administrator in order to verify an applicant's eligibility must state in writing the reason for the refusal. Any such person who refuses to provide information, without just cause, may be subject to a civil penalty of not less than \$25 nor more than \$100. Any person, including the applicant, who knowingly and willfully makes a false representation of a material fact to the administrator is committing a Class E crime (22 M.R.S.A. § 4314, 4315).

Misuse of information. Misuse of any information relating to an applicant or recipient is a punishable offense. 22 M.R.S.A. § 42(2).

Section 3.2 Maintenance of records

The general assistance administrator will keep complete and accurate general assistance records (22 M.R.S.A. § 4306). These records are necessary to:

- a) provide a valid basis of accounting for municipal expenditures;
 - b) document and support decisions concerning an applicant or recipient;
- and
- c) ensure the availability of all relevant information in the event of a fair hearing or judicial review of a decision by the general assistance administrator.

Case Records. The administrator will establish and maintain a separate case record for each applicant or recipient. Each case record will include at least the household's applications, budget sheets, information concerning the types and amounts of assistance provided, narrative statements describing the nature of the emergency situation whenever general assistance is granted in amounts greater than the applicant's mathematical eligibility (i.e., deficit or unmet need, whichever is less), written decisions, and any requests for fair hearings and the fair hearing authority decisions. Workfare participation will also be recorded, as will any cash repayments to the municipality. The record may also include any narrative writings documenting the need for general assistance, the results of home visits, collateral information, referrals, changes in status, the reason(s) for the release of confidential information, adjustments in aid, and suspension or termination of eligibility. Case records will not include information or material that is irrelevant to an applicant's or recipient's application or the administrator's decisions.

ARTICLE IV

Application procedure

Section 4.1 Right to apply

Who may apply. Anyone may apply for general assistance. The head of the family, any other responsible household member, or an authorized representative must apply in person, except in special emergency situations as provided in section 4.9 of this ordinance or except when the applicant is a resident of an emergency shelter and the municipality has made an agreement with that emergency shelter to presume shelter residents to be eligible for general assistance (22 M.R.S.A. § 4304(3)). The administrator may require a representative to present a signed statement documenting that he/she is in fact authorized to apply for general assistance on behalf of the named applicant. The applicant or representative must complete a

written application and any other required forms so that the administrator can determine eligibility (22 M.R.S.A. §§ 4305, 4308). With notice, all members of the household receiving general assistance may be required to physically present themselves to the administrator.

Application via telephone. When a person has an emergency but is unable to apply in person due to illness, disability, lack of child care, lack of transportation or other good cause, and he/she cannot send an authorized representative, the administrator will accept an application by telephone. The telephone application process will include the administrator receiving written verification by mail or visiting the applicant's home with his/her permission (22 M.R.S.A. § 4304).

Written application upon each request. Each request for assistance will be administered in accordance with these guidelines. The administrator will make an independent determination of eligibility for general assistance each time a person applies. (22 M.R.S.A. §§ 4308, 4309).

Applications accepted; posted notice. Application forms will be available during regular business hours at the municipal office and when the general assistance administrator is conducting interviews with applicants. Notice will be posted stating when and where people may apply for assistance and the name of the administrator available to take emergency applications at all other times. In addition, the posted notice shall include the fact that the municipality must issue a written decision on all applications within 24 hours, and the Department of Human Services' toll free telephone numbers for reporting alleged violations or complaints. Completed applications will be accepted and interviews given only during the regular hours established and posted by the administrator. In an emergency, however, the administrator will be available to accept applications for assistance whenever necessary (22 M.R.S.A. § 4304).

Section 4.2 Application Interview

Except when it is impractical, the general assistance administrator will interview each applicant personally before making a decision. The interview will be conducted in private, although the applicant may be accompanied by a legal representative, friend or family member.

Section 4.3 Contents of the application

At a minimum, the application will contain the following information:

- a) applicant's name, address, date of birth, Social Security number, and phone number;
- b) names, date(s) of birth, and Social Security number(s) of other household members for whom the applicant is seeking assistance;
- c) total number of individuals in the building or apartment where the applicant is residing;
- d) employment and employability information;
- e) all household income, resources, assets, and property;
- f) household expenses;
- g) types of assistance being requested;
- h) penalty for false representation;
- i) applicant's permission to verify information;
- j) signature of applicant and date.

Section 4.4 General assistance administrator's responsibilities at the time of the application

The administrator will make every effort to inform all applicants of their rights and responsibilities as well as the general program requirements associated with applying for and receiving general assistance, including application requirements, eligibility guidelines, applicant rights, and reimbursement obligations.

Application requirements. The administrator will help the applicant fill out the application form as described in the preceding section. The admin-

istrator will inform the applicant of any other information or documentation that the applicant will have to provide in order for the administrator to evaluate the applicant's eligibility for assistance. The administrator will fully explain the purpose of any release of information form or reimbursement agreement before seeking to obtain the applicant's signature or written authorization.

Eligibility requirements. The administrator will inform the applicant of the eligibility requirements of the program, including

- the income standard of need;
- the applicant's ongoing use-of-income, work-related, and resource-related responsibilities, as described in the section immediately below;
- the financial reduction in assistance that is the consequence of spending household income on non-necessities; and
- the disqualification penalties associated with committing fraud, failing to perform work-related assignments without just cause, or failing to make a good faith effort to secure potential resources when the requirement to attempt to obtain those resources has been explained to the applicant in writing.

Applicant rights. The administrator will inform all applicants of their rights to:

- review the municipal General Assistance ordinance and Maine General Assistance law;
- apply for assistance;
- receive a written decision concerning eligibility within 24 hours of applying for assistance;
- confidentiality;
- contact the Department of Human Services;
- challenge the administrator's decision by requesting a fair hearing.

Reimbursement/Recovery. The administrator will inform the applicant that he/she must reimburse the municipality for the amount of general assistance he/she has been granted in the event of a subsequent ability to pay. In addition to seeking repayment from a recipient, the municipality also may recover the amount of assistance granted to a recipient during the previous 12 months from any relative legally liable for the applicant's support (spouses, parents of persons under the age of 25, see Article VII, Recovery of Expenses). 22 M.R.S.A. §§ 4318, 4319. Whenever applicable, the administrator will explain the various liens a municipality may place against a recipient's real or personal property, such as the mortgage or capital improvement lien, the Workers' Compensation lump sum payment lien, or the SSI "interim assistance agreement" lien, as these liens are described in Article VIII, *Recovery of Expenses*.

Section 4.5 Responsibilities of the applicant at the time of application

The applicant has the responsibility at the time of each application to provide accurate, complete and current information and verifiable documentation concerning his or her income, resources, assets, household employment, how the applicant has spent his or her income, the names and addresses of any relatives legally liable for the applicant's support, and any change in this information from a previous application that would affect his or her eligibility (22 M.R.S.A. §4309).

In addition, the applicant must accurately report and provide verifiable documentation that shows the applicant:

- a) has remained employed, if previously employed, and not quit work without just cause or been discharged from employment for misconduct;
- b) has been seeking employment, if previously unemployed or employed on a part-time basis, has accepted any suitable offer of employment, and has satisfactorily performed all workfare assignments or had just cause not to perform those assignments;

c) has made use of all available and potential resources when directed in writing to such a program by the administrator, including, but not limited to, other government benefit programs or the assistance of liable relatives of sufficient means; and

d) has participated in any training, retraining, educational or rehabilitative program when appropriate and when directed in writing to such a program by the administrator, in order to diminish the applicant's need for general assistance (22 M.R.S.A. §§4316-A, 4317).

Section 4.6 Action on applications

Written decision. The general assistance administrator will give a written decision to the applicant concerning his/her eligibility within 24 hours after the applicant submits a written application. Assistance will be furnished to eligible applicants within that period except when the municipality is permitted by law (and pursuant to section 5.6 of this ordinance) to issue assistance conditionally on the successful completion of a workfare assignment. (22 M.R.S.A. §§ 4305, 4316-A, 4321). A written decision will be given each time a person applies, whether assistance is granted, denied, reduced or terminated.

Content. The written decision will contain the following information:

- a) the type and amount of aid the applicant is being granted or the applicant's ineligibility;
- b) the period of eligibility if the applicant is eligible for assistance;
- c) the specific reasons for the decision;
- d) the applicant's right to a fair hearing; and
- e) the applicant's right to notify the Department of Human Services if he/she believes the municipality has acted illegally. (22 M.R.S.A. § 4321).

Section 4.7 Withdrawal of an application

An application is considered withdrawn if:

- a) the applicant requests in writing that his/her application be withdrawn;
- or
- b) the applicant refuses to complete or sign the application or any other form needed by the general assistance administrator.

Section 4.8 Temporary refusal to accept application

Under special circumstances, the general assistance administrator may temporarily refuse to accept applications for 24 hours. Such circumstances may include, but are not limited to, the following:

- a) when the applicant's conduct is abusive, disruptive, or harassing, or when the applicant is under the influence of drugs or alcohol. In these situations, the applicant will be asked to leave, and if the applicant refuses to leave, the police may be summoned. The applicant will be informed that an application will be accepted when his/her conduct is under control;

- b) when a third person applies for assistance on behalf of the applicant. That person may be required to provide written verification that he/she has been duly authorized to act as a representative for the applicant (22 M.R.S.A. § 4308).

Section 4.9 Emergencies

An emergency is considered to be any life threatening situation or a situation beyond the control of the applicant which if not alleviated immediately could reasonably be expected to pose a threat to the health or safety of the applicant or a member of the household. (22 M.R.S.A. § 4301.4). Although they may be considered otherwise ineligible to receive general assistance, persons who apply for assistance to alleviate an emergency will be granted assistance, except as provided below, if they do not have sufficient income and resources to meet an actual emergency need and have not had sufficient income and resources to avert the emergency. 22 M.R.S.A. § 4308.

Disqualification. A person who is currently disqualified from receiving

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General Assistance due to a violation of sections 5.5, 5.6, 5.7, or 6.4 of this ordinance is ineligible to receive emergency assistance (22 M.R.S.A. § 4308.2(A)). Dependents of a disqualified person may be eligible for assistance. For the purposes of this section, "dependents" are defined as: 1) a dependent minor child; 2) an elderly, ill or disabled person; or 3) a person whose presence is required to provide care for any child under the age of 6 years or any ill or disabled member of the household (22 M.R.S.A. § 4309.3). In the event one or more members of a household are disqualified and assistance is requested for the remaining dependents, the eligibility of those dependents will be calculated as though the household is comprised of the dependents only, except that all household income will be considered available to them.

Assistance prior to verification. Whenever an applicant informs the administrator that he/she needs assistance immediately, the administrator will grant, pending verification, the assistance within 24 hours, provided that:

a) after interviewing the applicant the administrator has determined that the applicant will probably be eligible for assistance after a verification of information is completed; and

b) the applicant submits documentation when possible, to verify his/her need.

The administrator may contact at least one other person to confirm the applicant's statements about needing emergency assistance. No further assistance will be authorized until the applicant's eligibility is confirmed (22 M.R.S.A. § 4310).

Telephone applications. If a person has an emergency need and cannot apply in person due to illness, disability, lack of transportation, lack of child care, or other good cause, and if there is no authorized representative who can apply on behalf of the applicant, the administrator will accept an application over the telephone.

The administrator will not grant any assistance as the result of a telephone application if the applicant refuses to allow the administrator to verify the information either by visiting his/her home or by mail and the administrator cannot determine his/her eligibility through any other means.

Limitation on emergency assistance. Applicants are not automatically eligible for emergency assistance. If applicants had income which could have been used to prevent all or part of an emergency, but they spent that income on items which are not basic necessities, they will not be eligible to receive general assistance to replace that money. Applicants have the responsibility to provide the administrator with verifiable documentation demonstrating that the applicant did not have sufficient income to avert the emergency situation. According to the following criteria, the administrator may limit emergency assistance to cover only the difference between the amount of money necessary for the household to avoid the emergency and the amount of income available to the household during the applicable time period.

a) The applicable time period shall be the 30 days preceding the application for emergency assistance, except in those cases where the emergency was created by a negative account balance for a commodity or service (such as rent, mortgage or utility payments), and the negative account balance was created over a longer period of time. In such cases, the applicable time period shall be the consecutive length of time the account balance has been in the negative.

b) The administrator shall seek from the applicant all information pertinent to the applicant's ability to provide for his or her basic necessities for the applicable time period, including evidence of all income and resources received over that period of time.

c) The administrator shall calculate all costs for the household's basic necessities during the applicable time period, per month, in accordance with the maximum levels established by this ordinance for the specific basic

necessities or the actual monthly cost, whichever is less, including all costs associated with averting the particular emergency situation for which the applicant is seeking assistance.

d) From the total household costs for basic necessities during the applicable time period, the administrator shall subtract the total income and lump sum payments available to the household for the applicable time period as well as the total general assistance actually received during the applicable time period.

e) The administrator may restrict the issuance of emergency assistance to the difference yielded by the computation in subsection (d), even when such a grant will not totally alleviate the emergency situation.

f) The administrator may waive this limitation on emergency assistance in life threatening situations or for first time applicants; that is, persons who have never before applied for general assistance.

g) Nothing in these criteria may be construed as prohibiting a municipality from electing to alleviate an emergency situation in the most cost-effective manner available, provided such a determination of eligibility for emergency assistance is in conformance with general assistance law.

Section 4.10 Residence

The administrator shall provide general assistance to all eligible persons applying for assistance who are residents of this municipality. A resident is a person who has no other residence and is physically present in this municipality and who intends to remain here and establish a household.

The municipality also recognizes its responsibility to provide assistance to eligible persons who apply here and who are not residents of this municipality or any other municipality. If a person who is not a resident of any municipality applies in this municipality first, the administrator will determine his/her eligibility and, if eligible, will grant assistance until he/she establishes a residence in another municipality (22 M.R.S.A. § 4307).

Moving/relocating. The municipality will not consider moving or transporting an applicant or recipient into another municipality unless the person requests assistance to relocate to another municipality. If the administrator determines the applicant is eligible and grants financial assistance to help with the requested relocation, this municipality will be responsible for providing assistance to the applicant for 30 days after he/she moves provided the recipient remains eligible.

Institutions. If a resident of this municipality enters an institution located in another municipality (such as a group home, shelter, rehabilitation center, nursing home, or hospital) and requests assistance while at the institution, he/she will be the responsibility of this municipality for up to 6 months after he/she enters the institution. The municipality thereafter retains responsibility for an applicant in an institution only if the applicant has maintained a home in this municipality to which he/she intends to return. The municipality also recognizes its responsibility for applicants residing in an institution in this municipality if such an applicant had no residence prior to entering the institution. (22 M.R.S.A. § 4307.4).

Temporary Housing. Hotels/motels and similar places of temporary lodging are considered institutions (see above) if the municipality grants financial assistance for, makes arrangements for, or advises or encourages an applicant to stay in temporary lodging. [Note: municipalities which illegally deny housing assistance and, as a result of the denial, the applicant stays in temporary lodging are responsible for the applicant for up to 6 months and may be subject to other penalties. (22 M.R.S.A. 4307.4).]

Disputes. When the administrator believes that an applicant is a resident of another municipality but that municipality disputes its responsibility the administrator will notify the Department of Human Services in Augusta (287-3654 or 1-800-442-6003). If the applicant applies in this municipality first, the administrator will determine his/her eligibility and, if eligible, will grant assistance until the Department has concluded which

municipality is responsible for providing assistance. If another municipality was responsible, the Department will recover the amount due from the other municipality. (22 M.R.S.A. §§ 4307.5, 4307.6).

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ARTICLE V

Eligibility factors

A person will be eligible for general assistance if he/she is in need and has complied with the eligibility requirements set forth below.

Section 5.1 Initial application

Initial application. For initial applicants, except as provided immediately below, need will be the sole condition of eligibility. The exception to this general rule, as provided by law, applies to all applicants, including initial applicants, who are disqualified for a defined period for quitting employment without just cause or for being discharged from employment for misconduct (22 M.R.S.A. § 4316-A(1-A), see section 5.5)). An initial applicant is a person who has never before applied for general assistance in any municipality in Maine (22 M.R.S.A. § 4308.1).

"Need" means that the applicant's income (including pro-rated income, where applicable), property, credit, assets or other resources are less than the overall maximum level of assistance contained in section 6.8 of this ordinance or the applicant's 30-day need, whichever is less, and he/she does not have adequate income or other resources available to provide basic necessities.

Subsequent applicants. Persons who are not initial applicants are repeat applicants. Repeat applicants are people who have applied for general assistance at any time in the past. Repeat applicants are also people on whose behalf a general assistance application was made at any time in the past, provided that at such a time the applicant was not a dependent minor in the household. For repeat applicants to be eligible for general assistance, they must be in need *and* meet all other eligibility requirements. The eligibility of repeat applicants may also be adversely affected to the extent they have not used their income and resources to secure basic necessities.

Section 5.2 Eligibility for categorical assistance

Receipt of categorical assistance will not disqualify a person from receiving general assistance if the applicant is otherwise eligible. Benefits received from other assistance programs will be considered as income when determining need, with the exception of Food Stamps, which will not be counted as income or resources or otherwise taken into consideration when determining need (7 U.S.C. § 2017 (b)). Also, any fuel assistance (HEAP/ECIP) received by an applicant will not be considered as income or a resource; that is, the administrator will always compute the heating needs of an applicant who has received HEAP or ECIP as if that applicant paid all costs associated with his or her fuel needs. (42 U.S.C. §8624(f)). The calculation of general assistance for heating energy needs when an applicant has received HEAP or ECIP shall be accomplished in accordance with subsection (c) under *Types of Income* at section 6.6 of this ordinance.

Applicants or recipients must apply for other program benefits within 7 days after being advised in writing to do so by the general assistance administrator. Persons who, without just cause, make no good faith effort to obtain a potential resource will be disqualified from receiving assistance until they make a good faith effort to obtain the benefit (22 M.R.S.A. § 4317).

Section 5.3 Personal property

a) Liquid assets. No person owning assets easily convertible into cash, including but not limited to, bank deposits, stocks, bonds, certificates of

deposit and other marketable security, will be eligible for general assistance unless and until he or she uses these assets to meet his/her basic needs, and thereby exhausts them.

b) Tangible assets. No person owning or possessing personal property consisting of more than one motor vehicle, or a boat, trailer, recreation vehicle or other assets that are convertible into cash and are non-essential to the maintenance of the applicant's household will be eligible for general assistance. Exceptions may be made when a person is making an initial application or when reasonable efforts to convert assets to cash at fair market value are unsuccessful.

Tools of a trade, livestock, farm equipment and other equipment used for the production of income are exempt from the above category and are not considered available assets.

c) Automobile ownership. Ownership of one automobile per household will not make a person ineligible for assistance if such vehicle is essential for transportation to employment, medical care, rehabilitation or training facilities, or if it is essential to the maintenance of the applicant's household. Recipients of general assistance who own an automobile with a market value greater than \$5000 may be required, with written, 30-day notice, to make a good faith effort to trade that automobile in to a reputable automobile dealer for an automobile with a market value of less than \$5000. Any income received by the applicant by virtue of such a trade down must be used for his/her basic necessities. Failure to liquidate or trade down the excess value of any automobile asset can result in disqualification. (22 M.R.S.A. § 4317). The municipality will neither pay nor consider as necessary expenses any car payment for which the applicant is responsible. General assistance for travel-related needs shall be computed in accordance with section 6.8(f)(6 and 7) *Travel/work related expenses*.

d) Insurance. Insurance that is available to an applicant on a non-contributory basis or that is required as a condition of employment will not be a factor in determining eligibility for general assistance. Life insurance with a cash surrender value may be considered as a tangible asset when an applicant has received assistance for 4 weeks or more after an application for assistance.

e) Transfer of property. Applicants who transfer assets for less than fair market value to someone else solely for the purpose of establishing eligibility for general assistance will not be granted general assistance to replace the uncompensated value of the transferred asset. Assistance will be denied within a 120-day limit up to the uncompensated value of the asset which was transferred unless the transfer of asset is fraudulently misrepresented, in which case a 120-day disqualification will issue. There will be a presumption that the applicant transferred his/her assets in order to be eligible for general assistance whenever property is sold for less than the fair market value or when the transfer occurred within 30 days prior to applying for general assistance unless the applicant can demonstrate the existence of an arms-length transaction.

Section 5.4 Ownership of real estate

If the applicant or dependents own real property other than that occupied as the principal home, continued eligibility will depend on the applicant making a reasonable effort to:

- a) dispose of the property at fair market value in order to convert the property into cash which can be applied toward meeting present need; or
- b) obtain a loan against such property which may be used to meet present need. Applicants who transfer their excess property to a third party in order to become eligible for general assistance will be ineligible.

If an applicant is granted assistance in the form of a mortgage payment or capital improvement payment, the municipality may claim a lien against the property. The lien shall not be enforceable until the time of sale of the

property or upon the death of the recipient (22 M.R.S.A. § 4320, see also section 6.8).

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Section 5.5 Work requirement

All general assistance recipients are required to register for work, look for work, work to the extent of available employment, and otherwise fulfill the work requirements, unless the applicant is exempt from such requirements as provided below.

Employment; rehabilitation. All unemployed applicants and members of their households who are 16 years of age or older will be required to accept any suitable job offer or opportunity for rehabilitative services, except as provided below (see *Exemptions*). Applicants must demonstrate to the administrator that they are available for work and are actively seeking employment.

A "suitable job" means any job which the applicant is mentally and physically able to perform. "Available for work" means that applicants must make themselves available for work during normal business hours prevailing in the area, and show that no circumstance exists which would prevent them from complying with the work requirement.

Verification. Unemployed applicants or applicants employed on a part-time basis will be required to provide verifiable documentation of their pursuit of employment at the time of each application. At a minimum, such documentation shall consist of a list of the employers contacted, the date and time of the application contact, and the name of the employer representative contacted. "Pursuit of employment" means actually submitting a written application or applying for a job in person when reasonable, or submitting a written application or letter of inquiry to employers. For the duration of any repeat applicant's period of unemployment or partial employment, the administrator will establish the number of employers per week to whom each non-exempt applicant shall be required to apply in order to fulfill his or her work search requirements. The number of weekly employer contacts required by the administrator shall be reasonably related to the number of potential employers in the region and the number of hours in the week the applicant has available for work search activities after considering all time the applicant must devote to existing employment obligations, workfare obligations, and required classroom or on-site participation in job training, educational, or rehabilitation programs. Fulfillment of these requirements will not be expected at the time of the initial application, but will be a condition of eligibility for subsequent assistance.

Disqualification. After being granted assistance at the time of initial application, applicants will be considered ineligible for further assistance for 120 days if they, without just cause;

- a) refuse to register for employment with the Maine Job Service;
- b) refuse to search diligently for employment when the search is reasonable and appropriate. Recipients who unreasonably seek work at the same places repeatedly will not be considered to be performing a diligent worksearch and will be disqualified.
- c) refuse to accept a suitable job offer;
- d) refuse to participate in an assigned training, education or rehabilitation program that would assist the applicant in securing employment;
- e) fail to be available for work;
- f) refuse to participate or participate in a substandard manner in the municipal work program (see section 5.6).

Disqualification for job quit or discharge for misconduct. No applicant, whether an initial or repeat applicant, who has quit his or her full-time or part-time job without just cause or who has been discharged from employment for misconduct will be eligible to receive general assistance of any kind for a 120-day period from the date of separation from employment (22 M.R.S.A. §§ 4301.8, 4316-A (1-A)).

Just Cause. Applicants will be ineligible for assistance for 120 days if they refuse to comply with the work requirements of this section without just cause. With respect to any work requirement, just cause will be considered to exist when there is reasonable and verifiable evidence that:

- a) the applicant has a physical or mental illness or disability which prevents him/her from working;
- b) the work assignment pays below minimum wages;
- c) the applicant was subject to sexual harassment;
- d) the applicant is physically or mentally unable to perform required job tasks, or to meet piece work standards;
- e) the applicant has no means of transportation to or from work or a training or rehabilitation program;
- f) the applicant is unable to arrange for necessary child care or care of ill or disabled family members;
- g) any reason found to be good cause by the Maine Department of Labor, or any other verifiable reason which the administrator considers reasonable and appropriate will be accepted as just cause. (22 M.R.S.A. § 4316-A.5).

Applicant's burden of establishing just cause. If the administrator finds that the applicant has violated a work-related rule without just cause, it shall be the responsibility of the applicant to establish the presence of just cause (22 M.R.S.A. § 4316-A).

Eligibility regained. Persons who are disqualified for 120 days because they violated a work requirement may regain their eligibility if and only when they become employed or otherwise satisfy the administrator that they are complying with the work requirement by fulfilling the work requirement or requirements they violated.

For the purpose of regaining eligibility by becoming employed, "employment" shall mean employment by an employer as defined in 26 M.R.S.A. §§ 1043 et seq., or the performance of a service for an employer who withholds from the employee a social security tax pursuant to federal law.

The special provisions regarding the opportunity to regain eligibility after a disqualification for workfare violations are detailed in section 5.6 of this ordinance, under *Eligibility Regained*.

Dependents. Failure of an otherwise eligible person to comply with the work requirements shall not affect the eligibility of any member of the person's household who is not capable of working, including:

- a) a dependent minor child;
- b) an elderly, ill, or disabled person; and
- c) a person whose presence is required in order to provide care for any child under 6 years of age or for any ill or disabled member of the household (22 M.R.S.A. § 4309.3). In the event one (or more) member(s) of a household is disqualified and assistance is requested for those remaining members of the household who are dependents, the eligibility of those dependents will be calculated as though the household is composed of the dependents only, except that all household income will be considered as available to them.

Exemptions. The above work requirements do not apply to any person who is elderly, physically or mentally ill, or disabled. Any person whose presence is required to care for any pre-school age child or for any ill or disabled member of the household is also exempt from these requirements.

The requirements of this section will not be imposed so as to interfere with an applicant's existing employment, ability to pursue a bona fide job offer, ability to attend an interview for possible employment, classroom participation in a primary or secondary educational program intended to lead to a high school diploma, classroom or on site participation in a training program which is either approved by the Department of Labor or determined by the Department of Labor to be expected to assist the applicant in securing employment, or classroom participation in a degree-granting program

operated under the control of the Department of Human Services or Department of Labor.

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Section 5.6 Municipal Work Program

Each applicant and any member of the household who is capable of working may be required to perform work for the municipality, including work for a non-profit organization, as a condition of receiving assistance (22 M.R.S.A. § 4316-A.2). As part of the municipal work program, the municipality can require recipients to participate in training, education, or rehabilitative programs that will assist the recipient in securing employment. The work requirement provisions found in section 5.5 regarding *just cause*, *dependents*, and *exemptions* also apply to the municipal workfare program.

Consent. Persons assigned to the work program are required to sign a form stating that they understand the requirements of general assistance and the work program. Prior to signing the form, the administrator will read it to the applicants or the applicants will read it themselves. The form will also state the number of hours the applicants must work and the hourly rate by means of which the duration of the work assignment is calculated. In addition, the consent form shall describe the consequences of failing to adequately perform part or all of the workfare or workfare-first assignment.

Limitations. The work requirement is subject to the following limitations. (22 M.R.S.A. § 4316-A.3).

1) No person shall, as a condition of eligibility, be required to do any amount of work that exceeds the value of the net general assistance that the person receives under municipal general assistance standards. Any person performing work under this subsection shall be provided with net general assistance, the value of which is calculated at a rate of at least the prevailing minimum wage under state or federal law. (*Note:* The federal minimum wage is \$4.75/hour as of October 1, 1996, and shall be increased to \$5.15/hour on September 1, 1997.)

2) No workfare participant shall be required to work for a nonprofit organization if that work would violate the participant's basic religious beliefs;

3) In no case shall eligible persons performing work under this subsection replace regular municipal employees.

4) In no case will work performed under this subsection interfere with an eligible person's:

- a) existing employment
- b) ability to follow up on a bona fide job offer;
- c) attendance at an interview for possible employment;
- d) classroom participation in a primary or secondary educational program intended to lead to a high school diploma; or
- e) classroom or on site participation in a training program which is approved by the Department of Labor or determined by the Department of Labor to be reasonably expected to assist the person in securing employment, or classroom participation in a degree-granting program operated under the control of the Department of Human Services or the Department of Labor.

5) In no case may an eligible person be required to work more than 40 hours per week. An eligible person who has full or part-time employment shall be exempt from the work requirement to the extent that the work requirement in combination with his/her regular employment would result in the person working more than 40 hours per week.

6) In no case will an eligible person be required to perform work beyond his/her capabilities. However, when an illness or disability is claimed, an eligible person may be required as a condition of receiving assistance to present a doctor's statement detailing the extent of the disability or illness (22 M.R.S.A. § 4309).

If the administrator requires a doctor's statement to verify an applicant's illness or disability, the municipality will pay for the doctor's evaluation if the

applicant has no means to pay for the exam, however in such a case the administrator will choose the doctor. The administrator will not require verification of medical conditions which are apparent or which are of such short duration that a reasonable person would not ordinarily seek medical attention (22 M.R.S.A. § 4316.5).

7) In no case may an eligible person with an immediate need (i.e., a person in an emergency situation who has not been disqualified from receiving assistance for committing a program violation) be required to perform work under this subsection prior to receiving general assistance. The administrator shall meet immediate needs upon receiving written assurance from the eligible person that he/she is willing to work to maintain eligibility for general assistance. When the recipient has no immediate need, workfare participation may be required prior to receiving general assistance in accordance with the following "workfare first" policy.

"Workfare first" policy. Under the authority of 22 M.R.S.A. § 4316-A(2)(D), the administrator may, in accordance with the following guidelines, require a recipient of general assistance to perform a workfare assignment prior to the actual issuance of the general assistance benefit conditionally granted.

1) In no circumstance will *emergency* general assistance for which an applicant is eligible be withheld pending the satisfactory performance of workfare.

2) All workfare participants under this policy will be provided a written decision, as otherwise required by law, within 24 hours of submitting an application for general assistance and prior to performing any workfare for the municipality associated with that request for assistance. That written decision must include:

a) a specific description of the amount of general assistance being conditionally granted to the household, and for which basic needs;

b) the period of eligibility for which the general assistance grant is being issued (in days or weeks, but not to exceed 30 days);

c) the rate, at a dollar-per-hour basis (but not less than the prevailing minimum wage), upon which the duration of the workfare assignment is calculated;

d) the actual duration of the workfare assignment that must be performed, in hours, before the general assistance grant will be actually issued;

e) the specifics of the workfare assignment(s), including the general nature of the type of work being assigned, location(s) of work-site, date(s) and time(s) of assigned workfare, workfare supervisors' names and contact telephone numbers, and

f) any other pertinent information related to the workfare assignment(s) the recipient will be expected to perform.

3) As previously provided in this section, all workfare participants under this policy must sign a consent form that informs the participant of his or her workfare-related rights and responsibilities, including the consequences of failing to perform all or part of the workfare assigned without just cause.

4) In addition to any disqualification penalty that may apply, the consequences of refusing to perform or completely failing to perform the workfare assignment, without just cause, or performing the entire workfare assignment below the average standards that job without just cause, will be the termination of the entire general assistance grant. Notice of the grant termination will be provided the workfare participant in accordance with section 6.9 of this ordinance.

5) If some of the workfare-first assignment is satisfactorily performed but there has been a failure to perform the remainder of the assignment, without just cause, the administrator shall issue a grant of general assistance in the amount of the number of workfare hours satisfactorily performed times the hourly rate used to calculate the duration of the workfare assignment. In

addition to any disqualification penalty that may apply, the remaining value of the conditionally issued general assistance grant shall be terminated, and notice of the partial termination, and the reasons therefore, will be issued to the workfare participant in accordance with section 6.9 of this ordinance.

6) Any amount of the workfare assignment that is not performed because the workfare participant was temporarily unable to perform the assignment for just cause reasons shall be reassigned.

Work-related expenses. A participant's expenses related to work performed under this section will be added to the amount of net general assistance to be provided to the person (22 M.R.S.A. § 4316.2(E)). The municipality will provide any special clothes or equipment the recipient needs to perform his/her work assignment.

Disqualification. Any person who willfully fails to perform or willfully performs below average standards the work assigned by the municipality, without just cause, will be ineligible for assistance for 120 days. (22 M.R.S.A. § 4316-A.1). As soon as the administrator knows that a recipient failed to fulfill the work assignment, the administrator will notify the recipient in writing that he/she is disqualified for 120 days unless the recipient can show just cause. The burden of demonstrating a just cause failure to perform a workfare assignment falls on the workfare participant.

Eligibility regained. Recipients who are disqualified from receiving assistance because they have violated the requirements of the municipal work program may regain their eligibility under the following conditions.

Recipients who fail to complete the first municipal work assignment they have been given will be disqualified from receiving assistance during the next 120 days, although dependents in the household may be eligible (see Sec. 5.5, *Dependents*).

If during the 120-day disqualification period the recipient requests an opportunity to perform the work assignment which he or she, without just cause, failed to perform, the disqualified recipient will be given an opportunity to regain eligibility. The administrator will give the recipient a work assignment as soon as possible. If under such a set of circumstances the recipient has an emergency need and the administrator is unable to schedule a work assignment in time to alleviate the emergency, the administrator will provide sufficient assistance to the recipient to avert the emergency, but the provision of such emergency assistance will not bar the administrator from subsequently enforcing the 120-day disqualification if the recipient fails to regain eligibility by satisfactorily performing the work assignment. The amount of emergency assistance granted will be considered in the computation of the total number of hours the recipient must work.

Recipients who have asked to regain their eligibility during a 120 day disqualification period and who agreed to fulfill the assignment which they previously failed to perform and who, without just cause, fail to fulfill their municipal work assignment will be considered to have acted in bad faith. In such a circumstance, the administrator will enforce the 120-day disqualification for the term of its initial duration.

If a workfare participant regains eligibility under this section but is subsequently disqualified within the initial 120-day period of disqualification for failing to comply with the municipal work program, that participant will be ineligible for a new 120-day period beginning with the new disqualification date, but with no opportunity to requalify.

Any recipient who intentionally causes damage to property or harms other employees by his/her actions and is discharged by the work supervisor will not be entitled to regain eligibility by returning to the work program. Eligibility may be regained by otherwise becoming employed and meeting the definition of need.

Reports. The administrator will itemize the assistance that has been

provided to persons who work for the municipality in reports to the Department of Human Services (22 M.R.S.A. § 4316-A.2).

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Section 5.7 Use of resources

Each applicant has the responsibility to make a good faith effort to utilize every available or potential resource which may reduce his/her need for general assistance (see definition of Resources). People who refuse or fail to make a good faith effort to secure a potential resource after receiving written notice to do so are disqualified from receiving assistance until they make an effort to secure the resource. Applicants are required to prove that they have made a good faith effort to secure the resource (22 M.R.S.A. § 4317).

Minors. A minor under the age of 18 who has never married and is applying independently for general assistance and who is pregnant or has a dependent child or children will be eligible to receive general assistance only if the minor is residing in the home of his or her parent, legal guardian or other adult relative, in which case the entire household will be evaluated for eligibility. Exceptions to this limitation on eligibility will be made when:

- 1) the minor is residing in a foster home, maternity home, or other adult-supervised supportive living arrangement; or
- 2) the minor has no living parent or the whereabouts of the both parents are unknown; or
- 3) no parent will permit the minor to live in the parent's home; or
- 4) the minor has lived apart from both parents for at least one year before the birth of any dependent child; or
- 5) the Department of Human Services determines that the physical or emotional health or safety of the minor or the minor's dependent child or children would be jeopardized if the minor and his or her child or children lived with a parent; or
- 6) the Department of Human Services determines, in accordance with its regulation, that there is good cause to waive this limitation on eligibility. (22 M.R.S.A. § 4309.4).

Any person under the age of 25 who is applying independently from his/her parents for general assistance will be informed that until he or she reaches the age of 25, the applicant's parents are still legally liable for his/her support and the municipality has the right to seek recovery from the parents of the cost of all assistance granted to such a recipient to the extent his/her parents are financially capable of repaying the municipality. (22 M.R.S.A. §4319). With regard to any such application, the municipality may seek verification of the applicant's need for general assistance by contacting his/her parents. If the applicant's parents declare a willingness to provide the applicant with his/her basic needs directly, and there is no convincing evidence that the applicant would be jeopardized by relying on his/her parents for basic needs, the administrator may find the applicant to be in no need for general assistance for the reason that his/her needs are being provided by a legally liable relative.

Mental or physical disability. Any applicant who has a mental or physical disability must make a good faith effort to utilize any medical or rehabilitative services which have been recommended by a physician, psychologist or other professional retraining or rehabilitation specialist when the services are available to the applicant and would not constitute a financial burden or create a physical risk to the individual.

Written notice; disqualification. The administrator will give each applicant written notice whenever the applicant is required to utilize any specific potential resources. Any applicant who refuses to utilize such potential resources, without just cause, after receiving written 7-day notice will be ineligible for further assistance until he/she has made a good faith effort to utilize the resources.

General assistance will not be withheld from the applicant pending receipt of a resource if the applicant has made, or is in the process of making, a good faith effort to obtain the resource.

Forfeiture of benefits. Any applicant who forfeits receipt of or causes a reduction in benefits from another public assistance program due to fraud, misrepresentation, a knowing or intentional violation of program rules or a refusal to comply with that program's rules without just cause will be ineligible to receive general assistance to replace the forfeited benefits. To the extent the forfeited benefits can be considered income under general assistance law, the worth of the forfeited benefits will be considered income that is available to the applicant for the duration of the forfeiture. To the extent the forfeited benefits were provided not in the form of income but, rather, in the form of a specific, regularly issued resource of a calculable value, that resource, up to its forfeited value, need not be replaced with general assistance for a period of 120 days from the date of the forfeiture unless the municipality is prohibited by federal or state law from considering the forfeited resource as available with respect to local public assistance programs (22 M.R.S.A. §4317).

Section 5.8 Period of Disqualification

No one will have his/her assistance terminated, reduced, or suspended prior to being given written notice and an opportunity for a fair hearing (22 M.R.S.A. §§ 4321-4322). Each person will be notified in writing of the reasons for his/her ineligibility, and any person disqualified for not complying with the ordinance will be informed in writing of the period of disqualification.

Work requirement. People who do not comply with a work requirement are disqualified from receiving assistance for a period of 120 days (unless they regain their eligibility; see sections 5.5, 5.6). Recipients who do not comply with the work requirement associated with their grant of assistance and are disqualified before the period covered by the grant of assistance expires shall be disqualified for 120 days following the end of the period covered by the assistance grant. People who do not comply with a work requirement and are disqualified after the period covered by the grant of assistance expires will be disqualified for 120 days from the date of the written notice of disqualification. The administrator shall give recipients written notice that they are disqualified as soon as the administrator has sufficient knowledge and information to render a decision of disqualification.

Fraud. People who commit fraud are disqualified from receiving assistance for a period of 120 days. (see section 6.4, Fraud). The administrator shall give recipients written notice that they are disqualified as soon as the administrator has sufficient knowledge and information to render a decision. If a disqualification for fraud is issued before the expiration of a grant of assistance, the period of disqualification shall commence on the day following the end of the period covered by the grant of assistance. If fraud is discovered after the period covered by the grant of assistance has expired, the period of ineligibility will commence on the day of the written notice of disqualification.

ARTICLE VI

Determination of Eligibility

Section 6.1 Recognition of dignity and rights

Any determination or investigation into an applicant's eligibility will be conducted in a manner that will not violate the applicant's privacy or personal dignity or violate his/her individual rights.

Section 6.2 Determination; redetermination

The administrator will make an individual, factual determination of eligibility each time a person applies or reapplies for general assistance.

The administrator will make a redetermination of eligibility at least monthly but may do so as often as necessary to administer the program efficiently and meet the needs of the applicants. Upon any application, the administrator will determine the applicant's eligibility on the basis of a 30-day prospective analysis, but may elect to disburse that applicant's assistance periodically, e.g., weekly, throughout a 30-day period of eligibility pursuant to that initial eligibility determination.

The administrator may redetermine a person's eligibility at any time during the period he/she is receiving assistance if the administrator is notified of any change in the recipient's circumstances that may alter the amount of assistance the recipient may receive. Once a recipient has been granted assistance, the administrator may not reduce or rescind the grant without giving prior written notice to the recipient explaining the reasons for the decision and offering the recipient an opportunity to appeal the decision to the fair hearing authority (22 M.R.S.A. § 4309).

Section 6.3 Verification

Applicant's responsibility. Each applicant and recipient has the responsibility at the time of application and continuing thereafter to provide complete, accurate and current information and documentation concerning his/her need, income, use of income, expenses, and any changes in information previously reported on the application. The administrator will require documentation of the applicant's income, use of income, assets and resources plus actual bills and receipts for rent, utilities, fuel, telephone, medical services and other basic necessities that are reasonably obtainable. The recipient is responsible for notifying the administrator of any changes in his/her household or income that may affect his/her eligibility.

When determining an applicant's eligibility, the administrator will seek all necessary information first from the applicant. Information needed from other sources, with the exception of public records, will be gathered only with the knowledge and consent of the applicant (22 M.R.S.A. § 4309.1-B).

Decision. If an applicant does not have the necessary information at the time of application, the administrator will give the applicant the opportunity to provide the information prior to the expiration of the 24 hour period within which the administrator must act on the application. Except when assistance is conditionally granted pursuant to this municipality's workfare-first policy (see section 5.6), if all the necessary information has been provided and the applicant is eligible, assistance will be granted. If the applicant does not provide the required information needed within the 24 hour period, and the administrator cannot determine the applicant's eligibility, the applicant will be denied assistance for that reason (22 M.R.S.A. § 4309.1-B).

Denial of assistance. The administrator will not grant assistance to any applicant who refuses to supply necessary information and documentation concerning his/her needs, income and other resources, or who refuses to grant permission for the administrator to contact other persons to verify the information. If the administrator has attempted to verify the information but is unable to determine if the applicant is eligible because the applicant has refused to provide or allow the administrator to verify the necessary information, the applicant will be denied assistance until the necessary verification has been accomplished (22 M.R.S.A. § 4309.1-B).

Right to verify. It is the administrator's responsibility to determine and verify the eligibility of each applicant. The administrator may seek and verify information from all appropriate sources including, but not limited to: the Department of Human Services and any other department of the state having information that has a bearing on an applicant's eligibility, financial institutions, employers, landlords, physicians, and legally liable relatives. The administrator will request the applicant's written consent authorizing the administrator to receive the necessary information (22 M.R.S.A. § 4314).

Penalty for refusing to release information. Any person governed by 22 M.R.S.A. § 4314 who refuses to provide necessary information to the

administrator after it has been requested must state in writing the reasons for the refusal within 3 days of receiving the request. Any such person who refuses to provide the information, without just cause, commits a civil violation and may be subject to a fine of not less than \$25 nor more than \$100 which may be adjudged in any court of competent jurisdiction. Any person who willfully renders false information to the administrator is guilty of a Class E crime (22 M.R.S.A. §§ 4314.5, 4314.6, 4315).

Section 6.4 Fraud

It is unlawful for a person to make knowingly and willfully a false representation of a material fact to the administrator in order to receive general assistance or cause someone else to receive general assistance. (22 M.R.S.A. § 4315). False representation shall consist of any individual knowingly and willfully:

- a) making a false statement to the general assistance administrator, either orally or in writing, in order to obtain assistance to which the applicant or the applicant's household is not entitled;
- b) concealing information from the general assistance administrator in order to obtain assistance to which the applicant or applicant's household is not entitled; or
- c) using general assistance benefits for a purpose other than that for which they were intended.

No person may be denied assistance solely for making a false representation prior to being given an opportunity for a fair hearing.

Period of Ineligibility. When the general assistance administrator finds that a person has knowingly and willfully misrepresented material facts for the purpose of making himself or herself eligible for general assistance, the administrator shall notify that applicant in writing that he or she has been disqualified from receiving assistance for 120 days. For the purpose of this section, a material misrepresentation is a false statement about an eligibility factor in the absence of which some or all of the assistance would not be or would not have been granted. The notification of disqualification issued by the administrator shall inform the applicant of his/her right to appeal the administrator's decision to the fair hearing authority within 5 working days of receipt. The period of ineligibility shall commence on the day following the end of the period covered by the grant of assistance fraudulently received or upon the date of notification of disqualification, whichever is later.

Right to a fair hearing. Any applicant who is denied assistance for making a false representation will be afforded the opportunity to appeal the decision to the fair hearing authority in accordance with Article VII of this ordinance. No recipient shall have his/her assistance reduced or revoked during the period of eligibility before being notified and given the opportunity to appeal the decision. Any person who is dissatisfied with the decision of the fair hearing authority may appeal that decision to the Superior Court pursuant to Rule 80-B of the Maine Rules of Civil Procedure (22 M.R.S.A. § 4309.3).

Reimbursement. If a recipient does not appeal the decision or if the fair hearing authority determines that a recipient did make a false representation, the recipient will be required to reimburse the municipality for any assistance received to which he/she was not entitled.

Dependents. In no event will the disqualification of a person under this section serve to disqualify any eligible dependent in that household (22 M.R.S.A. § 4309.3). In the event one or more members of a household are disqualified and assistance is requested for the remaining dependents, the eligibility of those dependents will be calculated as though the household is comprised of the dependents only, except that the entire household income will be considered available to them.

Section 6.5 Period of eligibility

The administrator will grant assistance to all eligible persons for a period that is sufficient to meet their need but in no event may a grant of assistance cover a period in excess of one month (22 M.R.S.A. § 4309). Upon any application the administrator will determine the applicant's eligibility on the basis of a 30-day prospective analysis. For reasons of administrative efficiency, however, the administrator may elect to disburse that applicant's assistance for shorter periods of time, such as weekly, throughout the 30-day period of eligibility. When the administrator elects to disburse general assistance for a period of time less than 30 days, subsequent grants of assistance during that 30-day period may be issued pursuant to the initial determination of need unless the applicant's financial situation changes substantially enough to warrant a redetermination of eligibility.

Section 6.6 Determination of need

The period of time used to calculate need will be the next 30-day period from the date of application (22 M.R.S.A. § 4301.7). The administrator will calculate applicants' expenses according to the actual expense of the basic necessity or the maximum levels for the specific necessities allowed in section 6.8, whichever is less. The sum of these expenses, as calculated for a prospective 30-day period, is the applicant's *30-day need*. Applicants will not be considered eligible if their income and other resources exceed this calculation except in an emergency (see section 4.9, 22 M.R.S.A. § 4308.2).

Applicants will also not be considered in need of general assistance if their income, property, credit, assets or other resources available to provide basic necessities for their household are greater than the applicable overall maximum level of assistance set forth in the beginning of section 6.8 (22 M.R.S.A. §§ 4301.10, 4305.3-B). The difference between the applicant's income and the overall maximum levels of assistance established by this ordinance is the applicant's *deficit*. Once an applicant's deficit has been determined, the specific maximum levels of assistance for each basic necessity listed in section 6.8 shall be used by the administrator to guide the distribution of assistance for which the applicant is eligible. The specific maximum levels of assistance for each basic necessity are intended to be reasonable and sufficient to help recipients maintain a standard of health and decency (22 M.R.S.A. § 4305.3-A).

Income for basic necessities. Applicants are required to use their income for basic necessities. Except for initial applicants, no applicant is eligible to receive assistance to replace income that was spent within the 30-day period prior to an application for assistance on goods and services that are not basic necessities. All income spent on goods and services that are not basic necessities will be considered available to the applicant and combined with the applicant's prospective 30-day income for the purposes of computing eligibility (22 M.R.S.A. § 4315-A). Applicants who have sufficient income to provide their basic necessities but who use that income to purchase goods or services which are not basic necessities will not be considered eligible for assistance. Persons who exhaust their income on basic necessities and who still need assistance with other basic necessities will be eligible, provided that their income does not exceed the overall maximum level of assistance.

Use-of-income requirements. The administrator may require that anyone applying for general assistance must document his/her use of income to the administrator. This documentation can take the form of cancelled checks and/or receipts which demonstrate that the applicant has exhausted all household income received over the last 30-day period. Any repeat applicant may be required to verify that such an expenditure of income was for basic necessities.

Allowable expenditures include reasonable shelter costs (rent/mortgage); the cost of heating fuel, electricity, and *food up to the ordinance maximums*; telephone costs at the base rate *if the household needs a telephone for medical reasons*, the cost of nonelective medical services as

recommended by a physician which are not otherwise covered by medical entitlement or insurance; the reasonable cost of essential clothing and non-prescription drugs, and the costs of any other commodity or service determined essential by the administrator.

Cable television, cigarettes/alcohol, gifts purchased, costs of trips or vacations, court fines paid, repayments of unsecured loans, credit card debt, costs associated with pet care, etc., are not considered basic necessities and will not be included in the budget computation.

The municipality reserves the right to apply specific use-of-income requirements to any applicant, other than an initial applicant, who fails to use his/her income for basic necessities or fails to reasonably document his/her use of income (22 M.R.S.A. § 4315-A). Those additional requirements will be applied in the following manner:

1) The administrator may require the applicant to use some or all of his/her income, at the time it becomes available, toward *specific* basic necessities. The administrator may prioritize such required expenditures so that most or all of the applicant's income is applied to housing (i.e., rent/mortgage), energy (i.e., heating fuel, electricity), or other specified basic necessities.

2) The administrator will notify applicants in writing of the specific use-of-income requirements placed on them.

3) If upon subsequent application it cannot be determined how the applicant's income was spent, or it is determined that some or all of the applicant's income was not spent as directed and was also not spent on basic necessities, the applicant will not be eligible to receive either regular or emergency general assistance to replace that income.

4) If the applicant does not spend his/her income as directed, but can show with verifiable documentation that all income was spent on basic necessities up to allowed amounts, the applicant will remain eligible to the extent of the applicant's eligibility and need.

Calculation of income and expenses. When determining eligibility, the administrator will subtract the applicant's net income from the overall maximum level of assistance found at the beginning of section 6.8. If income is greater than the overall maximum level of assistance, the applicant will not be eligible except in an emergency (see Sec. 4.9). If income is less than the overall maximum level of assistance, the applicant has a deficit.

The municipality will provide assistance in an amount up to the deficit to the extent the applicant also has an unmet need and is in need of basic necessities. The municipality will not grant assistance in excess of the maximum amounts allowed in section 6.8 of this ordinance for specific basic necessities except in an emergency or when the administrator elects to consolidate the applicant's deficit, as provided immediately below.

Consolidation of deficit. As a general rule and to the extent of their deficit, applicants will be eligible for assistance for any basic necessity up to, but not exceeding, the maximum amount allowed for that necessity in this ordinance or the actual 30-day cost of the necessity, whichever is less. Under certain circumstances, however, and in accordance with the following conditions, the administrator may consolidate the applicant's deficit and apply it toward a basic necessity in an amount greater than the ordinance maximum for that necessity.

1) The practice of consolidating the deficit and applying it toward a basic necessity in amounts greater than the ordinance maximum shall be the exception rather than the rule;

2) The total general assistance grant cannot exceed the total deficit unless the applicant is in an emergency situation; and

3) The need for the application of the recipient's consolidated deficit toward a basic necessity was not created by the recipient mispending his or her income or resources in violation of the use-of-income requirements of this ordinance.

Section 6.7 Income

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Income standards. Applicants whose income exceeds the overall maximum level of assistance provided in section 6.8 shall not be eligible for general assistance except in an emergency. The administrator will conduct an individual factual inquiry into the applicant's income and expenses each time an applicant applies.

Calculation of income. To determine whether applicants are in need, the administrator will calculate the income they will receive during the next 30-day period commencing on the date of application, and identify any assets or resources that would alleviate their need. For all applicants other than initial applicants, the administrator will also consider as available income any income that was not spent during the previous 30-day period on basic necessities, as well as any income that was spent on basic necessities in unreasonable excess of the ordinance maximums for specific basic necessities. If a household's income exceeds the amount of the household's need for basic necessities, up to the maximum levels contained in section 6.8, applicants will not be considered in need. Exceptions will be made in emergency situations which may necessitate that the maximum levels be exceeded (22 M.R.S.A. [4308; see section 4.9). To calculate weekly income and expenses, the administrator will divide the applicants' monthly income and expenses by 4.3.

Types of Income. Income that will be considered in determining an applicant's need includes:

a) **Earned income.** Income in cash or in kind earned by the applicant through wages, salary, commissions, or profit, whether self-employed or as an employee, is considered earned income. If a person is self-employed, total income will be computed by subtracting reasonable and actual business expenses from gross income. When income consists of wages, the amount computed will be the income available after taxes, social security and other payroll deductions required by state, federal, and local law. Rental income and profit from produce that is sold is considered earned income. Income that is held in trust and unavailable to the applicant or the applicant's dependents will not be considered as earned income.

NOTE: Actual work-related expenses such as union dues, transportation to and from work, special equipment or work clothes, and child care costs will not be considered available income and will be deducted (22 M.R.S.A. § 4301.7).

b) **Income from other assistance or social services programs.** State/federal categorical assistance benefits, SSI payments, Social Security payments, VA benefits, unemployment insurance benefits, and payments from other government sources will be considered as income, unless expressly prohibited by federal law or regulation. Federal law prohibits Food Stamps and fuel assistance payments made by the Home Energy Assistance Program (HEAP and EPIC) from being considered income. The value of the food stamps or fuel assistance will not be used to reduce the amount of general assistance the applicant is eligible to receive, although applicants may have only a limited or reduced need for general assistance for heating fuel or electricity if a recently received HEAP/EPIC benefit has sufficiently credited their account or otherwise obviated an actual fuel-related cost over the prospective 30-day period. The administrator's obligation is to always compute the heating needs of an applicant who has received HEAP or EPIC as if that applicant paid for his/her total fuel costs. Accordingly, in such cases, the administrator will budget for the household's heating energy needs according to actual usage, up to the ordinance maximums, but the administrator may, with written notice to the applicant, hold in reserve the heating energy portion of the applicant's deficit until such a time during the period of eligibility that the applicant has a demonstrable need for the disbursement of heating energy assistance; that is, the applicant's fuel tank can accept a minimum fuel delivery or the applicant no longer has a positive credit balance

with his/her utility company. The municipality is not obligated to divert any recipient's heating energy allowance toward non-heating purposes solely on the basis of the recipient's receipt of HEAP/ECIP.

c) **Court-ordered support payments.** Alimony and child support payments will be considered income only if actually received by the applicant. The general assistance administrator will refer cases where support payments are not actually received to the State Department of Human Services' Support Enforcement Location Unit.

d) **Income from other sources.** Payments from pensions and trust funds will be considered income. Payments from boarders or lodgers will be considered income as will cash or in-kind contributions provided to the household from any other source, including relatives (22 M.R.S.A. § 4301.7).

e) **Earnings of a son or daughter.** Earned income received by sons and daughters below the age of 18 who are full-time students and who are not working full-time will not be considered income. The unearned income of a minor in the household will be considered available to the household.

f) **Income from household members.** Income from household members will be considered available to the applicant, whether or not the household member is legally obligated for the support of the applicant, if the household members pool or share their income and expenses as a family or intermingle their funds so as to provide support to one another.

g) **The pooling or non-pooling of income.** When two or more individuals share the same dwelling unit but not all members of the household are applying for general assistance, the administrator shall make a finding under a rebuttable presumption that the entire household is pooling income (22 M.R.S.A. § 4301.12-A). One or more applicants for assistance can successfully rebut the presumption that all household income is being pooled by providing the administrator with verifiable documentation affirmatively demonstrating a pattern of non-pooling for the duration of the shared living arrangement. Such documentation would include evidence of the entire household expenses as well as bank statements, cancelled checks, receipts, landlord statements or other vendor accounts clearly supporting a claim that the applicant has been and is presently solely and entirely responsible for his or her pro-rata share of household costs. If the applicant is unable to successfully rebut the municipality's presumption that all household income is being pooled, eligibility of the entire household will be determined based on total household income. If the applicant successfully rebuts the municipality's presumption that all household income is being pooled, the applicant's eligibility will be determined on the basis of his/her income and his/her pro-rata share of actual household expenses.

h) **Lump sum income.** A lump sum payment as defined in this ordinance and received by a household prior to the date of application for general assistance will be considered as income available to the household, with the exception of any required payments (i.e., any third party payment which is required as a condition of receiving the lump sum payment, or any payments of bills earmarked for the purpose for which the lump sum payment was made) and any amount of the lump sum payment which the applicant can document was spent on basic necessities, as described below.

In the case where a lump sum payment was received by a household at any time prior to the date of application for general assistance, the administrator will assess the need for prorating an applicant's eligibility for general assistance according to the following criteria (22 M.R.S.A. § 4301.7).

- 1) Identify the date the lump sum payment was received;
- 2) subtract from the lump sum payment all required payments;
- 3) subtract from the lump sum any amount the applicant can demonstrate was spent on basic necessities, including all basic necessities provided by general assistance in reasonable conformance with the specific maximum levels of assistance, per month, provided in this ordinance; any reasonable payment of funeral or burial expenses for a family member; any

reasonable travel costs related to the illness or death of a family member; repair or replacement of essentials lost due to fire, flood or other natural disaster; repair or purchase of a motor vehicle essential for employment, education, training or other day-to-day living necessities (22 M.R.S.A. § 4301.7).

4) Add to the remainder all income received by the household between the date of receipt of the lump sum payment and the date of application for general assistance.

5) divide the sum created by subsection (4) by the aggregate maximum monthly allocation of general assistance available to the household pursuant to 22 M.R.S.A. §4305.3-B (Appendix A).

The dividend remaining after following the above guidelines represents the number of months from the receipt of the lump sum payment during which an income level equivalent to the maximum monthly allocation of general assistance for the household will be deemed available to that household. No proration of lump sum income can extend longer than 12 months from the date of application. Applicants who have been declared ineligible for reasons of lump sum proration will not be eligible for emergency general assistance during the period of proration.

Section 6.8 Basic necessities; Maximum levels of assistance

Overall maximum levels of assistance. Notwithstanding any of the maximum levels of assistance for specific basic necessities listed in this section, an applicant's eligibility for general assistance will be first determined by subtracting his/her income from the overall maximum level of assistance designated immediately below for the applicable household size (22 M.R.S.A. § 4305.3-B). The difference yielded by this calculation shall be the applicant's deficit. Applicants will be eligible for general assistance up to the calculated deficit to the extent the applicant is unable to otherwise provide the basic necessities essential to maintain themselves or their families. Applicants with no deficit shall be found ineligible for general assistance unless they are in an emergency, in which case eligibility for emergency general assistance will be determined according to section 4.9 of this ordinance.

No. in Household	Weekly	Monthly
1		
2	(The applicable figures from Appendix A should be inserted here.)	
3		
4		
5		
6		
Additional persons		\$75.00

Maximum levels of assistance for specific basic necessities. The municipality will grant assistance to eligible applicants for basic necessities according to the maximum levels for specific types of assistance set forth below. The administrator, in consultation with the applicant, may apply the amount of the applicant's deficit toward assistance with any one or combination of necessities not to exceed the total deficit. These maximum levels will be strictly adhered to unless the administrator determines that there are exceptional circumstances and an emergency is shown to exist, in which case these absolute levels will be waived in order to meet immediate needs. In all cases either the actual expenses the applicant incurs for basic necessities or the maximum amount allowed in each category, whichever is less, will be used in determining need.

In roommate situations, the applicant's need for common living expenses for rent, fuel, electricity, etc., will be presumed to be reduced by an amount equal to the other household members' proportionate fair share of the common living expenses. No applicant will be allowed to claim a need for any expense which has been or will be paid by another person. In

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addition, as a general rule the municipality will not provide a benefit toward a basic need by paying a bill that is issued to a person not living with the applicant's household or that has otherwise been incurred by a person who has not been found eligible to receive assistance. Temporary exceptions to this general rule may be made by the administrator in the following circumstances: (1) a recent, unplanned separation has occurred in the household resulting in the sustained or permanent absence of a former household member in whose name the bill was customarily issued; (2) the applicant and members of the applicant's household were or will be the sole recipients of the commodities or services covered by any bill to be paid or partially paid with general assistance; and (3) the applicant will make a good faith effort to direct the vendor to issue future bills in the name of the applicant or other responsible person residing in the household.

a) **Food.** The administrator will provide food assistance to eligible persons up to the allowed maximum amounts designated by the U.S.D.A. *Thrifty Food Plan* for the appropriate household size. For this purpose, the municipality hereby incorporates by reference the U.S.D.A. *Thrifty Food Plan*, as distributed by the Maine Department of Human Services on or about October of each year. In determining need for food the administrator will not consider the value of the food stamps an applicant receives as income (22 M.R.S.A. § 4301.7(A); 7 U.S.C. §2017(b)). The municipality will authorize vouchers to be used solely for approved food products.

The maximum amounts allowed for food are:

No. in Household	Weekly	Monthly
	\$	\$
1		
2		
3	See Appendix B for figures to be inserted here.	
4		
5		
6		
7		
8		

The administrator will exceed the above maximums when necessary for households having members with special dietary needs. The administrator may require a doctor's statement verifying there is a special dietary need requiring an expenditure for food that is greater than the ordinance maximums.

b) **Housing.** The administrator will provide assistance with rent or mortgage payments that are reasonable and within the allowed maximum levels below. It is the applicant's responsibility to find suitable housing, although the administrator may help the applicant find housing when appropriate. The administrator will inform the applicant of the allowed housing maximums to assist the applicant in his/her search for housing. The allowed maximum for any applicant will be the categorical housing maximum representing the minimum dwelling unit space necessary to adequately shelter the applicant household. Applicants requesting assistance for housing that contains more bedrooms than are necessary for the number of household members will be provided assistance according to the maximum level for the number of rooms actually needed.

Rental payments to relatives. The municipality may elect to not issue any rental payment to an applicant's relatives unless the rental relationship has existed for at least three months and the applicant's relative(s) rely on the rental payment for their basic needs. For the purpose of this section, a "relative" is defined as the applicant's parents, grandparents, children, grandchildren, siblings, parent's siblings, or any of those relative's children (22 M.R.S.A. § 4319.2).

Rental payments to private homes. When applicants are living in private homes or sharing dwelling units with other people who are not requesting general assistance, the amount allowed as the applicant's shelter expense will be the applicant's prorata share of the actual, total

shelter cost, up to the ordinance maximum (22 M.R.S.A. § 4301.6).

Any housing assistance issued to a recipient in such a circumstance will be issued, whenever reasonably possible, to the landlord or property owner with the most superior interest in the property; i.e., to a landlord before a tenant, or to a mortgagee before a mortgagor.

When the municipality issues in aggregate more than \$600 in rental payments to any landlord in any calendar year, a 1099 form declaring the total amount of rental payments issued during the calendar year will be forwarded to the Internal Revenue Service (IRS) pursuant to IRS regulation. See section 6041(a) of Internal Revenue Code.

Any landlord wishing to regularly receive rental payments from the municipality on behalf of applicants renting rooms from the landlord's own residence must, at a minimum, make a good faith effort to obtain a lodging license from the Department of Human Services, Division of Health Engineering, pursuant to 10-144A Code of Maine Regulations, Chapter 201, as a condition of that landlord receiving future general assistance payments on behalf of his or her tenants.

Mortgage payments. In the case of a request for assistance with a mortgage payment, the general assistance administrator will make an individual factual determination of whether the applicant has an immediate need for such aid. In making this determination, the administrator will consider the extent and liquidity of the applicant's proprietary interest in the housing. Factors to consider in making this determination include:

- (1) the marketability of the shelter's equity,
- (2) the amount of equity,
- (3) the availability of the equity interest in the shelter to provide the applicant an opportunity to secure a short-term loan in order to meet immediate needs,
- (4) the extent to which liquidation may aid the applicant's financial rehabilitation,
- (5) a comparison between the amount of mortgage obligations and the anticipated rental charges the applicant would be responsible for if he/she were to be dislocated to rental housing,
- (6) the imminence of the applicant's dislocation from owned housing because of his/her inability to meet the mortgage payments,
- (7) the likelihood that the provision of housing assistance will prevent such dislocation, and
- (8) the applicant's age, health, and social situation.

These factors shall be considered when determining whether the equity in the shelter is an available asset which may be substituted for the assistance the municipality would otherwise be required to provide. If after reviewing the above criteria the administrator determines that: (1) the monthly mortgage obligation is in accordance with the maximum levels of assistance available for housing appropriate to the applicant's household size; (2) there is no capacity in the accumulated equity in the property, when considered in the context of the applicant's borrowing capacity with the mortgagee or the general lending community, to suspend the mortgage obligation temporarily or reamortize the mortgage in such a way as to suspend or reduce the mortgage obligation; and (3) the failure to provide a mortgage payment in a timely manner could jeopardize the applicant's continued right of possession of the property, then the administrator shall consider issuing a benefit in response to the applicant's request for mortgage assistance to the extent the applicant is otherwise eligible for general assistance.

If a mortgage payment is necessary, the administrator will pay the actual amount due, up to the amount allowed according to the maximum levels listed below. After an initial application, assistance with such payments will be given only after the applicant has made all reasonable efforts to borrow against the equity of his/her home. If there is not sufficient equity in the home with which to secure a loan, and if the monthly mortgage payments are not

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realistically in line with the rental rates for similar housing in the area that could meet the applicant's needs, the administrator will inform the applicant that he/she is responsible for finding alternative housing within his/her ability to pay and will be obligated to make all reasonable efforts to secure such housing.

Liens. The municipality may place a lien on the property in order to recover its costs of granting assistance with mortgage payments (22 M.R.S.A. § 4320). No lien may be enforced against a recipient except upon his/her death or the transfer of the property. Further, no lien may be enforced against a person who is currently receiving any form of public assistance, or who would again become eligible for general assistance if the lien were enforced.

If the municipality determines that it is appropriate to place a lien on a person's property to recover its costs of providing general assistance for a mortgage payment it must file a notice of the lien with the county registry of deeds where the property is located within 30 days of making the mortgage payment. That filing shall secure the municipality's or the state's interest in an amount equal to the sum of that mortgage payment and all subsequent mortgage payments made on behalf of the same eligible person, plus interest and costs. Not less than 10 days prior to filing the lien in the registry, the municipal officers must send notice to the owner of the real estate, the general assistance recipient, and any record holder of the mortgage by certified mail, return receipt requested, that a lien on the property is going to be filed with the registry. This notice must clearly inform the recipient of the limitations upon enforcement plus the name, title, address and telephone number of the person who granted the assistance. The municipal officers must also give written notice to the recipient each time the amount secured by the lien is increased because of an additional mortgage payment or the imposition of interest. This notice must include the same information that appeared on the original intent-to-file notice sent to the recipient.

The municipality will charge interest on the amount of money secured by the lien. The municipal officers will establish the interest rate not to exceed the maximum rate of interest allowed by the State Treasurer to be charged against delinquent taxes. The interest will accrue from the date the lien is filed.

Property taxes. In the event an applicant requests assistance with his/her property taxes, the administrator will inform the applicant that there are two procedures on the local level to request that relief: the poverty abatement process (36 M.S.R.A. § 841(2)) and General Assistance. If the applicant chooses to seek property tax assistance through General Assistance, or if the applicant is denied a poverty tax abatement, the administrator may consider using general assistance to meet this need only if:

- a) the property tax in question is for the applicant's place of residence;
- b) there is a tax lien on the property which is due to mature within 60 days of the date of application;
- c) as a matter of municipal policy or practice, or on the basis of information obtained from the applicant's mortgagee, if any, it is reasonably certain that a tax lien foreclosure will result in subsequent eviction from the residential property; and
- d) the applicant, with sufficient notice, applies for property tax relief through the Maine Resident Property Tax Program, when available.

Housing maximums. The maximum levels of housing assistance contained in this ordinance have been derived either from a locally accomplished fair market rental survey or the fair market rental values developed by the United States Department of Housing and Urban Development (HUD). If the maximum levels of housing are derived from the HUD values made effective as of every October 1, and adjusted to disregard the current and averaged utility allowances as developed by the Maine State Housing Authority, those levels are hereby incorporated by reference. If and when the maximum levels of housing contained in this ordinance are derived from

a locally developed fair market rental survey, a record of that survey will be submitted to the Department of Human Services, General Assistance Unit, and the maximum levels of housing assistance will be incorporated into this ordinance pursuant to the ordinance adoption and amendment procedures found at 22 M.R.S.A. § 4305.

The maximum amounts allowed for housing are:

No. of Bedrooms	Unheated		Heated	
	Weekly	Monthly	Weekly	Monthly
0	\$	\$	\$	\$
1				
2	(See Appendix C for figures to insert here)			
3				
4				

c) **Utilities.** Expenses for lights, cooking, and hot water will be budgeted separately if they are not included in the rent. Applicants are responsible for making arrangements with the utility company regarding service, including entering into a special payment arrangement if necessary.

Assistance will be granted to eligible applicants on the basis of their most recent bill. The municipality is not obligated to pay back bills or utility security deposits. Exceptions may be made in emergency situations pursuant to section 4.9. Disconnection of utility service will not be considered an emergency in all cases. The administrator will make an individual, factual analysis to determine if the termination of utility service constitutes an emergency. The administrator will consider the household composition, the time of year, the age and health of the household members, and other appropriate factors in reaching a decision. Applicants who had sufficient income, money, assets or other resources to pay their utility bill when it was received, but who spent all or part of their income on items which were not basic necessities, will not be eligible to receive general assistance to replace those funds. Applicants have the burden of providing evidence of their income and use of income for the applicable time period (22 M.R.S.A. § 4308.2, see section 4.9). The administrator will notify applicants in writing that they must give the administrator prompt notice if their utility service is to be terminated or if their fuel supply is low. It is the applicant's responsibility to attempt to make arrangements with the utility company to maintain their service and to notify the administrator if assistance is needed with a utility bill prior to service being terminated.

Electricity Maximums for Households Without Electric Hot Water. The maximum amounts allowed for utilities for lights, cooking, and other electric uses, excluding electric hot water are:

No. in Household	Weekly	Monthly
1	\$14.00	\$ 60.00
2	15.70	67.50
3	17.45	75.00
4	19.20	82.50
5	21.00	90.00
6	22.70	97.50

Additional members, add \$7.50/month

Electricity Maximums for Households that use Electrically Heated Hot Water. The maximum amount allowed for electric utilities for dwelling units that have electrically heated hot water shall be \$70 per month for the first member of the household, with an additional \$10 per month for each additional household member.

No. in Household	Weekly	Monthly
1	\$16.30	\$ 70.00
2	18.60	80.00
3	21.00	90.00

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4	23.30	100.00
5	25.60	110.00
6	27.90	120.00

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Note: For electrically heated households, the maximum amount allowed for electrical utilities per month shall be the sum of the appropriate maximum amount under this subsection and the appropriate maximum amount for fuel as provided below.

In accordance with the following conditions, the administrator may allow as a budgetable expense the amount of an applicant's summer-loaded special payment arrangement (SPA) or budget payment arrangement (BPA), as calculated by the electric utility and entered into by the applicant, even when the arranged payment amount exceeds the above maximums or actual usage:

- 1) The SPA or BPA, when annualized, does not exceed the above monthly maximums, when annualized, for non-electrically heated dwelling units.
- 2) The SPA or BPA, when annualized, does not exceed the above monthly maximums and the fuel assistance maximums, when annualized, for electrically heated dwelling units.
- 3) The administrator determines, in consultation with the utility, that the payment arrangement does not include in any part the installment payment of past debt unless the municipality guaranteed to the utility the allowance of such an arrangement as a condition of averting a disconnection.

Pursuant to the use-of-income requirements in section 6.6 of this ordinance, whenever the administrator budgets for SPA's or BPA's under this section, the recipient will be required to pay the SPA or BPA him or herself to the extent of the income capacity of the household.

Non-electric Utilities. The allowed amount for water and sewer utility service will be budgeted at the actual 30-day cost for those services.

d) **Fuel.** Expenses for home heating will be budgeted according to the actual need for fuel during the heating season (September through May) provided such expenses are reasonable, and at other times during the year when the administrator determines the request for fuel assistance is reasonable and appropriate.

Assistance will be granted to eligible applicants on the basis of their most recent bill. The municipality is not responsible for back bills except in an emergency as provided in section 4.9. Applicants are responsible for monitoring their fuel supply and requesting assistance prior to depleting their fuel supply. When applicants who have been informed of this responsibility run out of fuel nonetheless, and can show no just cause for failing to give the administrator timely notice of their need for fuel, the administrator shall find that the emergency was not beyond the applicants' control, and process the emergency request accordingly, pursuant to section 4.9 of this ordinance.

When considering requests for heating fuel, eligible applicants will be granted assistance with the actual amount necessary up to the following maximums:

month	gallons	month	gallons
September	50	January	225
October	100	February	225
November	200	March	125
December	200	April	125
		May	50

When the dwelling unit is heated electrically, the maximum amount allowed for heating purposes will be calculated by multiplying the number of gallons of fuel allowed for that month by the current price per gallon.

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When fuels such as wood, coal and/or natural gas are used for heating purposes, they will be budgeted at actual rates, if they are reasonable. No eligible applicant shall be considered to need more than 7 tons of coal per year, 8 cords of wood per year, 126,000 cubic feet of natural gas per year, or 1000 gallons of propane.

e) **Personal Care and Household Supplies.** Expenses for ordinary personal and household supplies will be budgeted and allowed according to the applicant's actual need for these items, up to the maximums below. Personal and household supplies include: hand soap, toothpaste, shampoo, shaving cream, deodorant, dish detergent, laundry supplies and costs, household cleaning supplies, razors, paper products such as toilet paper, tissues, paper towels, garbage/trash bags, and light bulbs.

No. in Household	Weekly Amount	Monthly Amount
1-2	\$ 8.20	\$35.00
3-4	9.30	40.00
5-6	10.50	45.00
7-8	11.60	50.00

Additional persons in the household will be budgeted at \$1.25 per week or \$5 a month.

When an applicant can verify expenditures for the following items, a special supplement will be budgeted as necessary for households with children under 5 years of age for items such as cloth or disposable diapers, laundry powder, oil, shampoo, and ointment up to the following amounts:

No. of Children	Weekly	Monthly
1	\$10.50	\$ 45
2	15.10	65
3	20.90	90
4	25.60	110

f) **Other Basic Necessities.** Expenses falling under this section will be granted when they are deemed essential to an applicant's or recipient's health and safety by the general assistance administrator and, in some cases, upon verification by a physician. Assistance will be granted only when these necessities cannot be obtained through the utilization of available resources.

1) **Clothing.** The municipality may assist a household with the purchase of adequate clothing. Before assistance will be granted for clothing, the general assistance administrator must be satisfied that the applicant has utilized all available resources to secure the necessary clothing. In some circumstances, clothing will be a postponable item. Exceptions to this would be, for example, if fire, flood or unusually cold weather makes extra clothing an immediate necessity, special clothing is necessary for the applicant's employment, or a household member is without adequate clothing.

2) **Medical.** The municipality will pay for essential medical expenses, other than hospital bills (see below), provided that the municipality is notified and approves the expenses and services prior to their being made or delivered. Medical expenses include prescriptions, devices, treatments, or services that are determined to be medically necessary by a licensed physician. The municipality will grant assistance for medical services only when assistance cannot be obtained from any other source and the applicant would not be able to receive necessary medical care without the municipality's assistance. The applicant is required to utilize any resource, including any federal or state program, that will diminish his/her need to seek general assistance for medical expenses. The municipality will grant assistance for non-emergency medical services only if a physician verifies that the services are essential. Provided there is no cost to the applicant, the administrator may require a second medical opinion from a physician designated by the municipality to verify the necessity of the services.

Generally, the municipality will issue general assistance at the established Medicaid rates for all medical services, prescriptions, or other medical commodities. Before authorizing general assistance for any medical expenses, the administrator will inform the pharmacy or medical service provider of the municipality's intention to pay for the medical service at the Medicaid rate, and ask to be billed accordingly.

Ordinary medical supplies/non-prescription drugs will be budgeted at the actual amount when the applicant can demonstrate a need for such items. Allowable supplies include bandages, aspirin, cough syrup, and other generic brand, non-prescription medicines. In addition, the basic monthly rate for telephone service will be budgeted when a telephone is essential to the health and safety of the household. In order for telephone service to be considered an allowable expense the applicant must provide a written statement from a physician certifying that the telephone is essential.

3) **Hospital bills.** In the event of an emergency admission to the hospital, the hospital must notify the administrator within 5 business days of the admission. Notification must be by telephone, confirmed by certified mail, or by certified mail only. If a hospital fails to give timely notice to the administrator, the municipality will have no obligation to pay the bill.

Any person who cannot pay his/her hospital bill must apply to the hospital for consideration under the hospital's charity care program as provided in Title 22 M.R.S.A. § 396-F(1). Anyone who is not eligible for the hospital's charity care program may apply for general assistance. Applicants must apply for assistance within 30 days of being discharged from the hospital and provide a notice from the hospital certifying that they are not eligible for the hospital's charity care program.

Before the administrator will consider whether to allow a hospital bill as a necessary expense, the applicant must enter into a reasonable payment arrangement with the hospital. The payment arrangement will be based upon the Medicaid rate. In determining an applicant's eligibility, the municipality will budget the monthly payment to the hospital the applicant has agreed to pay. The applicant's need for assistance with a hospital bill will be considered each time he/she applies by including the amount of the bill in the applicant's monthly budget, but the recipient will be responsible for making any necessary payments to the hospital pursuant to the use-of-income requirements found at section 6.6 of this ordinance.

4) **Dental.** The municipality will pay for medically necessary dental services only. As is the case with medical services generally, the municipality will issue general assistance for dental services at the established Medicaid rates for those services, and before authorizing the general assistance benefit for dental services, the administrator will inform the dentist or dental surgeon of the municipality's intention to pay at the Medicaid rate. If full mouth extractions are necessary, the municipality will pay for dentures provided the applicant has no other resources to pay for the dentures. The applicant will be referred to a dental clinic in the area whenever possible. The administrator will expect the applicant to bear a reasonable part of the cost for dental services, including extractions and dentures, taking into account the applicant's ability to pay.

5) **Eye Care.** In order to be eligible to receive general assistance for eyeglasses, an applicant must have his/her medical need certified by a person licensed to practice optometry. The general assistance administrator will provide assistance for eyeglasses to eligible persons only after the applicant has exhausted all other available resources.

6) **Work-related expenses.** In determining need, reasonable and actual work-related expenses will be deducted from earned income. These expenses include transportation at the actual costs not to exceed \$.28 per mile, child care costs, work clothes and supplies. The applicant is required to provide documentation substantiating the costs and that the expenses were necessary.

7) **Travel expenses.** In determining need, necessary travel which is not

work-related will be budgeted if the applicant can satisfy the administrator that the prospective need for travel is necessary. For applicants in rural areas, weekly transportation to a supermarket will be considered, as will any medically necessary travel. The rate at which such necessary travel will be budgeted is \$.28/mile, and this rate shall be construed to subsidize all costs associated with automobile ownership and operation, including gas/oil, tires, maintenance, insurance, financing, licensing/registration, excise tax, etc.

8) Burials, Cremations. Under the circumstances and in accordance with the procedures and limitations described below, the municipality recognizes its responsibility to pay for the burial or cremation of eligible persons.

Funeral Director must give timely notice: In order for the municipality to be liable for a burial or cremation expense, the funeral director must notify the administrator prior to the burial or cremation or by the end of the next business day following the funeral director's receipt of the body, whichever is earlier (22 M.R.S.A. §4313.2). This contact by the funeral director shall begin the process of developing an application for burial/cremation assistance on behalf of the deceased. It is the funeral director's responsibility to make a good-faith effort to determine if the family or any other persons are going to pay all or part of the burial expenses. If family members or others are unable to pay the expenses, and the funeral director wants the municipality to pay all or part of the expenses, the funeral director must make timely contact to the municipal administrator. In addition, the funeral director may refer legally liable relatives to the administrator so that a timely determination of financial capacity may be accomplished.

Application for assistance shall be created on behalf of the deceased: For the purposes of determining residency, calculating eligibility and issuing general assistance for burial or cremation purposes, an application for assistance shall be created by the administrator on behalf of the deceased.

With regard to residency, the municipality of responsibility for burial expenses shall be the municipality in which the eligible deceased person was a resident at the time of death as residency is determined under section 4.10 of this ordinance.

Although legally liable relatives may be asked to provide information regarding their income, assets, and basic living expenses, that information will *not* be construed as an application for general assistance inasmuch as living persons are not eligible for burial assistance. To clarify this point of law, although legally liable relatives have a financial responsibility to pay for the burial or cremation of their relatives, that financial responsibility only exists to the extent the legally liable relatives have a financial capacity to do so. Therefore, legally liable relatives who are eligible for general assistance, by virtue of their eligibility, have no legal obligation to pay for the burial or cremation of their relatives. For these reasons, all general assistance issued for burial or cremation purposes shall be issued on behalf of, and in the name of, the deceased.

The financial responsibility of certain family members: Grandparents, parents, siblings, children and grandchildren of the deceased, who live in Maine or own property in Maine, are financially responsible for the burial or cremation of the deceased to the extent those relatives, individually or as a group, have a financial capacity to pay for the burial or cremation either in lump sum or by means of a budgeted payment arrangement with the funeral home. Accordingly, at the request of the administrator, all legally liable relatives must provide the municipal administrator with any reasonably requested information regarding their income, assets, and basic living expenses.

Consideration of the financial responsibility of family members. Generally, when the administrator can make a finding that one or more of the deceased's legally liable relatives have an obvious and demonstrable

financial capacity to pay for the burial or cremation, by lump sum payment or by means of a reasonable payment arrangement, the municipality will not grant the requested burial or cremation assistance. When the administrator is unable to make such a finding, the following proration of familial responsibility will be implemented.

Proration of familial responsibility. A proration of familial financial responsibility will be used when no legally liable relative possesses an obvious and demonstrable capacity to pay for the burial or cremation, but one or more of the financially liable relatives is found to have a financial capacity to make a partial financial contribution, or the administrator is unable to determine the financial capacity of one or more of said relatives. Under these circumstances, each legally liable relative is considered to be responsible for his or her prorata share of the total municipal contribution that would exist if no legally liable relatives had a financial capacity to contribute. Furthermore, and as long as all other eligibility factors have been satisfied, the municipality will provide as a burial or cremation benefit the aggregate of all prorata shares less the share of any legally liable relative who refuses to cooperate with the administrator by providing information or documentation reasonably necessary to determine that relative's financial capacity, and less any share or part of a share attributable to a legally liable relative who can financially contribute or partially contribute toward the burial or cremation to the extent of that relative's share.

Ten days to determine eligibility: The administrator may take up to 10 days from the date of contact by the funeral director to issue a written decision regarding the amount of the municipal contribution toward the burial or cremation. The 10-day eligibility determination period from the date of contact by the funeral director shall be used as necessary to make third-party collateral contacts, verify the listing of legally liable family members and determine their respective financial capacities to contribute to the burial or cremation, contact the personal representative of the deceased's estate, if any, and other related administrative tasks. The administrator shall not use this 10-day period allowed by law to unreasonably delay the municipality's decision.

The municipal obligation to pay when legally liable relatives or others can contribute: The figures provided in this section are the maximum benefits provided by the municipality when no contributions toward the burial or cremation are available from any other source. To the extent any legally liable relatives of the deceased have a financial capacity to pay for the burial or cremation, that financial capacity shall be deducted from the maximum burial costs allowed by this section. In addition, any other benefits or resources that are available, such as Social Security burial benefits, veterans' burial benefits, or contributions from other persons, will be deducted from the maximum amount the municipality will pay, except there will be no deduction from the municipal benefit level with respect to any contribution provided for the purpose of publishing an obituary notice up to an aggregate contribution limit for this purpose of \$75 when a paid receipt demonstrating the purchase of an obituary notice is provided to the administrator.

Burial expenses. The administrator will respect the wishes of family members with regard to whether the deceased is interred by means of burial or cremated. The maximum amount of general assistance granted for the purpose of burial is \$1,125, with additional payments, where there is an actual cost, for: (1) the wholesale cost of a cement liner if the cemetery by-laws require one; (2) the opening and closing of the grave site; and (3) a lot in the least expensive section of the cemetery. If the municipality is able to provide a cemetery lot in a municipally-owned cemetery or in a cemetery under municipal control, the cost of the cemetery lot in any other cemetery will not be paid by the municipality.

The municipality's obligation to provide funds for burial purposes is limited to a reasonable calculation of the funeral director's direct costs, not

to exceed the maximum amounts of assistance described in this section. Allowable burial expenses are limited to: removal of the body from a local residence or institution; a secured death certificate or obituary; embalming; a minimum casket; a reasonable cost for necessary transportation; and other reasonable and necessary specified direct costs, as itemized by the funeral director and approved by the municipal administrator.

Cremation expenses. In the absence of any objection by any family members of the deceased, or when neither the administrator nor the funeral director can locate any family members, the administrator will issue general assistance for cremation services. The maximum amount of assistance granted for a cremation shall be \$785, with additional payments, where there is an actual cost, for a cremation lot in the least expensive section of the cemetery, a reasonable cost for a burial urn not to exceed \$50, and transportation costs borne by the funeral director at a reasonable rate per mile for transporting the remains to and from the cremation facility.

9) **Capital improvements.** The costs associated with capital improvements/repairs (e.g., heating/water/septic system repair) will generally not be budgeted as a basic necessity. Exceptions can be made only when the capital improvement/repair has been pre-approved by the administrator as a necessary expense and the monthly cost of the capital improvement/repair has been reduced as far as reasonably possible; for example, by means of the applicant entering into an installment payment arrangement with the contractor. The administrator may grant general assistance for capital improvements when: 1) the failure to do so would place the applicant(s) in emergency circumstances; 2) there are no other resources available to effect the capital repair; and 3) there is no more cost-effective alternative available to the applicant or municipality to alleviate an emergency situation. In some cases, the entire immediate cost of the capital improvement can be mitigated by the applicant entering into an installment payment arrangement with a contractor. The municipality reserves the right to place a lien on any property pursuant to 22 M.R.S.A. § 4320 when general assistance has been used to effect a capital improvement. The lien process shall be accomplished in the same manner as for mortgage payments, as described in subsection (b), above.

Section 6.9 Notice of decision

Written decision. The administrator will give a written decision to each applicant after making a determination of eligibility each time a person applies. The decision will be given to the applicant within 24 hours of receiving an application (22 M.R.S.A. § 4305.3; See Article IV, section 4.6).

In order to ensure that applicants understand their rights, it is the responsibility of the general assistance administrator to explain the applicants' right to a fair hearing in the written notice of decision.

Contents. After an application has been completed, applicants will be given written notice of any decision concerning their eligibility for assistance. In addition to the contents of a written decision listed in section 4.6 of this ordinance, the notice will state that applicants:

- a) have the right to a fair hearing and the method by which they may obtain a fair hearing and;
- b) have the right to contact the Department of Human Services if they believe the municipality has violated the law. The decision will state the method for notifying the department.

Disbursement of general assistance. Except when determined impractical by the administrator, all general assistance will be provided in the form of a voucher or purchase order payable to a vendor or through direct municipal payment to a provider of goods or services. General assistance will not be issued in the form of a cash payment to an applicant unless there is no alternative to making such a cash payment, in which case the administrator shall document the circumstances for issuing general assistance in the form of cash. (22 M.R.S.A. § 4305.6).

ARTICLE VII

The Fair Hearing

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Section 7.1 Right to a fair hearing

Within 5 working days of receiving a written notice of denial, reduction or termination of assistance, or within 10 working days after any other act or failure to act, the applicant or his/her authorized representative has the right to request a fair hearing (22 M.R.S.A. § 4322). The right to review a decision of the general assistance administrator is a basic right of the applicant to a full evidentiary hearing and is not limited solely to a review of the decision [*Carson v. Oakland*, 42 A.2d 170 (Me. 1982); *Thibodeau v. Lewiston*, Andro. Sup. Ct. CV# 78-388].

Section 7.2 Method of obtaining a fair hearing

Upon receiving notification of the decision of the general assistance administrator, all claimants will be informed of the method of obtaining a fair hearing. All complaints that are not clear requests for a fair hearing will be answered by a personal interview or in writing by the general assistance administrator. If the client is satisfied with the adjustment or explanation, the administrator will make an entry in the case record and file any correspondence involved.

Written request. To obtain a fair hearing, the claimant, or his/her authorized representative, must make a written request within 5 working days of receiving the administrator's decision to grant, deny, reduce or terminate assistance, or within 10 working days after any other act or failure to act. The administrator will make available a printed form for requesting a fair hearing and will assist the claimant in completing it if necessary. On the printed form, the claimant will give the following information:

- a) the decision on which review is sought;
- b) the reason(s) for the claimant's dissatisfaction and why the claimant believes he/she is eligible to receive assistance; and
- c) the relief sought by the claimant.

The administrator cannot deny or dismiss a request for a hearing unless it has been withdrawn by the claimant.

Scheduling the fair hearing. Upon receipt of the completed written request the fair hearing authority must meet and hold the hearing within 5 working days. The administrator will notify the claimant in writing when and where the hearing will be held (22 M.R.S.A. § 4322). In addition to the date, time and place of the hearing, the notice of fair hearing sent to the claimant shall include, at a minimum, the claimant's rights to:

- a) be his or her own spokesperson at the fair hearing, or be represented by legal counsel or other spokesperson at the hearing, at the claimant's own expense;
- b) confront and cross-examine any witnesses presented at the hearing against the claimant;
- c) present witnesses on his or her own behalf.

Arrangements for the date, time, and place of the hearing will take into consideration the convenience of the claimant and hearing authority. The claimant will be given timely notice to allow for preparation and will also be given adequate preliminary information about the hearing procedure to allow for effective preparation of his/her case.

Section 7.3 The fair hearing authority

The municipal officers will appoint a fair hearing authority that will review decisions of the general assistance administrator when requested by any claimant or the claimant's authorized representative. The authority is charged with the responsibility of ensuring that general assistance is administered in accordance with the state law and local ordinance.

The fair hearing authority may consist of the municipal officers, one or more persons appointed by the municipal officers to act as the hearing authority, or, if designated, the board of appeals created under 30-A M.R.S.A. § 2691. (22 M.R.S.A. § 4322). In determining the organization of the fair hearing authority, the municipal officers will use the following criteria. The person(s) serving as fair hearing authority must:

- a) not have participated in the decision which is the subject of the appeal;
- b) be impartial;
- c) be sufficiently skilled in interviewing techniques to be able to obtain evidence and the facts necessary to make a fair determination;
- d) be capable of evaluating all evidence fairly and realistically, explaining to the claimant the laws and regulations under which the administrator operated, and interpreting to the administrator any evidence of unsound, unclear, or inadequate policies, practices or actions.

Section 7.4 Fair hearing procedure

When a claimant requesting a fair hearing is notified of the date, time, and place of the hearing in writing, he/she will also be given adequate preliminary information about the hearing procedure to allow for effective preparation of his/her case. The claimant shall be permitted to review his/her file prior to the hearing. At a minimum, the claimant will be told the following information, which will govern all fair hearings. All fair hearings will:

- a) be conducted privately, and will be open only to the claimant, witnesses, legal counsel, or others whom the claimant wants present, and the general assistance administrator, his/her agents, counsel and witnesses;
- b) be opened with a presentation of the issue by the fair hearing authority;
- c) be conducted informally, without technical rules of evidence, but subject to the requirements of due process;
- d) allow the claimant and the administrator the option to present their positions for themselves or with the aid of others, including legal counsel;
- e) give all participants an opportunity to present oral or written testimony or documentary evidence, offer rebuttal; question witnesses presented at the hearing; and examine all evidence presented at the hearing;
- f) result in a decision, based exclusively on evidence or testimony presented at the hearing; and
- g) be tape recorded, and result in a written decision that is given to the claimant and filed with evidence introduced at the hearing. The fair hearing authority will allow the claimant to establish all pertinent facts and circumstances, and to advance any arguments without undue interference. Information that the claimant does not have an opportunity to hear or see will not be used in the fair hearing decision or made part of the hearing record. Any material reviewed by the fair hearing authority must be made available to the claimant or his/her representative. The claimant will be responsible for preparing a written transcript if he/she wishes to pursue court action.

The fair hearing authority shall admit all evidence if it is the kind of evidence upon which reasonable persons are accustomed to rely in the conduct of serious affairs. (22 M.R.S.A. §4322).

Section 7.5 The fair hearing decision

The decision of the fair hearing authority will be binding on the general assistance administrator, and will be communicated in writing to the claimant within 5 working days after completion of the hearing. Written notice of the decision will contain the following:

- a) a statement of the issue;
- b) relevant facts brought out at the hearing;
- c) pertinent provisions in the law or general assistance ordinance related to the decision;

d) the decision and the reasons for it.

A copy of the notice of the decision will be given to the claimant. The hearing record and the case record will be maintained by the general assistance administrator.

The written notice of the decision will state that if the claimant is dissatisfied with the fair hearing decision, he/she has a further legal right to appeal the decision pursuant to the Maine Rules of Civil Procedure, Rule 80B. To take advantage of this right, the claimant must file a petition for review with the Superior Court within 30 days of receipt of the fair hearing decision.

When the decision by the fair hearing authority or court authorizes assistance to the claimant, the assistance will be provided within 24 hours.

ARTICLE VIII

Recovery of Expenses

Recipients. The municipality may recover the full amount of assistance granted to a person from either the recipient or from any person liable for the recipient, or his/her executors or administrators in a civil action. Prior to taking a recipient to court to recover the amount of assistance, the municipality will seek voluntary repayment from the recipient by notifying him/her in writing and discussing it with the recipient. The municipality shall not attempt to recover such costs if, as a result of the repayment, the person would again become eligible for general assistance (22 M.R.S.A. § 4318).

Recipients anticipating workers' compensation benefits. The municipality shall claim a lien for the value of all general assistance payments made to a recipient on any lump sum payment made to that recipient under the Workers' Compensation Act or similar law of any other state (22 M.R.S.A. § 4318, 39-A M.R.S.A. § 106). After issuing any general assistance on behalf of a recipient who has applied for or is receiving Workers' Compensation, the municipality shall file a notice of the municipal lien with the general assistance recipient and the Office of Secretary of State, Uniform Commercial Code division. The notice of lien shall be filed on a UCC-1 form which must be signed by the recipient of general assistance who has applied for or is receiving Workers' Compensation. Any general assistance applicant who has applied for or who is receiving Workers' Compensation benefits and who refuses to sign a properly prepared UCC-1 form will be found ineligible to receive general assistance until he or she provides the required signature. The municipality shall also send a photocopy of that filing to the recipient's Worker's Compensation attorney, if known, the applicant's employer or the employer's insurance company, and, at the administrator's discretion, to the Workers' Compensation Board. The lien shall be enforced at the time any lump sum Workers' Compensation benefit is issued.

Recipients of SSI. All applicants who receive general assistance while receipt of their Supplemental Security Income (SSI) assistance is pending or suspended, and which therefore may be retroactively issued to the applicant at a later date, will be required to sign a statement on an Interim Assistance Agreement form distributed by the Department of Human Services that authorizes the Social Security Administration to direct a portion of any retroactive SSI payment to the municipality and/or the state in repayment for the general assistance granted. Any general assistance applicant who has applied for or who may be applying for SSI, or who may be required to apply for SSI pursuant to 22 M.R.S.A. § 4317, and who refuses to sign the Interim Agreement SSI authorization form will be found ineligible to receive general assistance until he or she provides the required signature (22 M.R.S.A. § 4318).

Relatives. The spouse of an applicant, and the parents of any applicant under the age of 25, are liable for the support of the applicant (22 M.R.S.A.

§4319). In addition, grandchildren, children, siblings, parents and grandparents are liable for the burial costs of each other. The municipality considers these relatives to be available resources and liable for the support of their relatives in proportion to their respective ability. The municipality may complain to any court of competent jurisdiction to recover any expenses made on the behalf of a recipient if the relatives fail to fulfill their responsibility. (22 M.R.S.A. § 4319).

NOTES:

ARTICLE IX

Severability

Should any section or provision of this ordinance be declared by the courts to be invalid, such decision shall not invalidate any other section or provision of the ordinance.

**DRAFT of PROPOSED
HARBOR ORDINANCE
Of the**

TOWN OF BREMEN
Adopted: **November 6, 2007**

CERTIFIED:

A TRUE COPY
ATTEST:



Judith F. Mohr, Town Clerk



Wendy Pieh, Chairman
Bremen Board of Selectmen
Date 11/6/07



Judith Mohr, Bremen Town Clerk
Date 11/6/07

Page 1. Revised 04/25/2000
TOWN OF BREMEN
HARBOR ORDINANCE

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ARTICLE I

GENERAL PROVISIONS

Section 1. Authority

A. This ordinance shall be enacted pursuant to the municipal home rule powers of Title 30-A, M.R.S.A., Section 3001 and pursuant to Title 38, M.R.S.A., Section 7; and the provisions of this ordinance shall be liberally interpreted in order to meet the objectives of those statutory sections.

B. Any person using any facilities within Bremen Waters shall assume all risk of damage or loss to his property, and to the property of others resulting from his compliance or failure to comply with this Ordinance.

C. The Town of Bremen assumes no risk on account of fire, theft, Act of God, or damages of any kind to vessels, floats, or other property within its jurisdiction except where such damage or injury is a direct result of the gross negligence, gross recklessness, or bad faith misconduct of the Harbor Master, his deputy (if Applicable) or other Town agent.

C. Conflict with Other Ordinances and Regulations

Whenever a provision of this Ordinance conflicts with another ordinance of the Town of Bremen or State or Federal regulation, the stricter provision shall be applied. Nothing contained herein shall be construed to conflict with the lawful jurisdiction of the United States Government with respect to enforcement of navigation, shipping or anchorage and associated laws of the United States or any valid laws or regulations of the State of Maine.

C. Effective Date

This Ordinance and any subsequent amendment shall take effect and be in force from the date of its adoption by the Town and all previous Harbor Ordinances are hereby repealed.

C. Amendments

Amendments to this Ordinance shall be consistent with all amendment processes of the Town, which must be approved by the Townspeople at an authorized Town Meeting and following at least one public hearing of the Harbor Committee.

Section 2. Purpose and Objectives

Bremen Waters are a valuable but limited resource, which has been subject to increasing demands for both recreational and commercial maritime uses and activities. The purpose and objectives of this ordinance are:

A. To preserve marine activities within the tidal waters of the Town of Bremen, Maine, to preserve the maritime nature of Bremen waters for marine related businesses including recreational boating.

B. To ensure safety to persons and property, to promote availability and use of valuable public resources, to create a fair and efficient framework for the administration of these waters in accordance with the Laws of the State of Maine and to minimize user conflicts and to maximize the efficient use of both the water space and the Town-owned waterfront. The Town shall apply each year to join the Maine Harbormasters association.

C. To remain consistent with the Bremen Comprehensive Plan, the Maine State Coastal Policies and the policies of the United States Army Corps of Engineers.

D. To govern and regulate navigation, the use and placement of moorings, the conduct of maritime activities, and the construction of piers, wharves, and breakwaters in, over, and upon the waters of Bremen Maine in conjunction with the Bremen Shoreland Zoning Ordinance as amended.

Section 3. Harbor Boundaries

A. Harbor Limits:

The harbor limits shall be established from the marine waters of Bremen by the Selectmen on the recommendations of the Harbor Committee and the Harbor Master and shall include:

**HOCKOMOCK CHANNEL/KEENE NARROWS AREA
BROAD COVE
GREENLAND COVE
MUSCONGUS
EASTSIDE BREMEN LONG ISLAND
OUTER BY SOUTH AND EAST OF HOG ISLAND**

II. DEFINITIONS:

Anchorage Area: An area of the harbor set aside for the temporary anchoring of Vessels.

AquaCulture : The culture or husbandry of marine organisms as defined in title 12 M.R.S.A. s6072.

Berth: The place where a Vessel lies when at a wharf or pier.

Channel: An area of waterway kept clear of moorings or other obstructions to allow the free passage of Vessels.

Commercial fishing lifetime mooring: A mooring obtained by lottery when there is no successor family member under article VII section 2 D 2 page 16.

Commercial Private Marine Facility: Any commercial enterprise in the shore land zone, that provides rental or service moorings, or any marine related service such as, but not limited to, the following: sales, storage, construction or maintenance of boats or other marine related items, the provisions of slips and/or moorings for permanent or transient berthing, sales of fuel, supplies, or marine equipment and hardware, or the provision of meals or lodging, human waste pump-out facilities.

Commercial Marine Fishing Facility : Any commercial enterprise providing at least sixty percent (60%) of its services to commercial fishing in the shoreland zone, such as one which handles fin-fish, shellfish, or any other marine related product, such as sales of fuel, supplies, or marine equipment and hardware.

Commercial Vessel: A Vessel that generates income and is registered as commercial.

Congested Areas: Those areas of Bremen Waters that are determined by the Harbor Master and confirmed and designated by the Harbor Committee to be approaching or to have reached saturation of available mooring space.

Cribbing: A usually rectangular open ballasted framework of wood, metal, or concrete permanently affixed to the bottom.

Deputy Harbormaster: Person(s) appointed by the Harbormaster to assist the Harbormaster with the accomplishment of the administrative duties of the position as directed .

DMR: State of Maine Department of Marine Resources

Float: floating structure, other than a Vessel, normally used as a point of transfer for passengers, fishing gear or other goods and not designed for self-propelled navigation.

Guest Mooring: A temporary mooring that may be permitted yearly in a non-congested Area of a Bremen waterfront property owner, solely for use by that permit holder's guests on a non-rental basis.

Harbor line: The Harbor line shall be the mean high water mark on bulkheads and shores. The harbor line defines the limit of the area on which filling can occur

Harbor-master: That person appointed by the Selectmen of Bremen pursuant to 38 M.R.S.A., Section 1, as amended from time to time, and Harbor Ordinance of the Town of Bremen. In all places where the "Harbor-master" is empowered to act in this Ordinance, so too is any Deputy Harbor-master appointed by the Selectmen and the Harbor-master, pursuant to 38 M.R.S.A., Section 2, to the full extent permitted by law and this ordinance. Deputy Harbor-masters shall serve at the direction of the Harbor-master.

Launching Ramp: Surface used to access boats to and from water.

Marina: See Commercial Marine Facility

Marine Landing: See Commercial Marine Facility

Mean High Water: Average height of high-water over a 19 year period.

Mean Low Water: Average height of low -water over a 19 year period.

Mobile Boat Hoist: A commercial straddle type mobile hoist and associated structures and devices used for moving boats and other objects in and out of the water, including attached floats and ramps.

Mooring: Any apparatus placed on ocean bottom for anchoring purposes and which apparatus is not carried aboard a vessel when underway as regular equipment. Synonymous with mooring gear and mooring hardware.

Mooring area: An area of the harbor set aside for permanent moorings for the mooring of boats and vessels

Mooring Plan: A plan for the placement and specification of moorings, usually in a Congested area, prepared by the Harbor-master, Deputy Harbor-masters (if applicable), and Harbor Committee, with public input, and approved by the Selectmen.

Mooring Site: A specific point on the ocean bottom in a mooring area assigned by the Harbor Master.

Mooring Spar: A cylindrical device used to identify mooring locations in winter.

Pier: A permanent platform –type structure contiguous to the shoreline and usually built perpendicular therefrom over the water, supported by pilings or cribbing. It is used for the berthing, loading, and unloading of vessels.

Piling: A rigid shaft of metal, wood, concrete, or plastic permanently affixed to the bottom.

Private Mooring: Any mooring other than a transient or service mooring.

Platform ramp: Projection from a wharf or pier to which a ramp is attached.

Ramp: A connector between a float or pier, wharf or other bulkhead for access.

Rental Mooring: Same as a service mooring.

Resident: For purposes of this Ordinance any person who occupies a dwelling within the municipality for more than 180 days in a calendar year or any person owning real estate in Bremen.

Review Permit: Permit issued by the Harbor Committee that outlines conditions for the construction of piers, wharves, bulkheads, breakwaters and landfill. The review permit is issued after a preliminary review by the planning board.

Service Moorings: Moorings owned and utilized by commercial marine enterprises or marine dependent enterprises for the purpose of temporary storage of customer's boats and other uses relating to the operation of a commercial marine enterprise or marine dependent enterprise.

Shall and May: "Shall" is mandatory, "May" is permissive.

Shorefront Owner: The owner of a parcel of land that borders on that area of Bremen Waters off which a mooring is being requested.

Shoreland Zoning Ordinance: The Shoreland Zoning Ordinance of the Town of Bremen as amended.

Submerged Land: All land seaward from the mean low-water mark or a maximum of 1,650 feet seaward of the mean high-water mark, whichever is closer to the mean high-water mark, out to the 3-mile territorial State marine boundary.

Tideland: Land alternately covered and uncovered by the tide

Transient Mooring: Moorings set aside for use by mariners cruising along the coast.

Vessel: Boat of any size propelled by hand, sail or motor, including scows, dredges, shellfish cars and craft of any kind.

Waterway: Any water area providing access from one place to another, principally a water area providing a regular route for water traffic.

Wharf: A platform structure contiguous to the shoreline and built parallel therefrom over the water, supported by piling or cribbing, used for the berthing, loading and unloading of vessel

III PENALTY

Failure to obey the order of a harbormaster is a Class E crime under Title 12 Section 7803-3

The master, owner or owners of any vessel, boat or raft, or any other person who shall violate any of the provisions of this ordinance, for which a specific penalty is not set forth herein, or for which a specific penalty is not otherwise provided by the laws of the State of Maine, shall be subject to the monetary penalties set forth in Title 30-A, M.R.S.A., Section 4452, amount of \$100.00 and a maximum penalty for a specific violation in the amount of \$2,500.00. Such penalties shall be recoverable in the District Courts or Superior Court of the State of Maine in accordance with Title 30-A, M.R.S.A. Section 4452 as amended from time to time.

Violations of this ordinance which also constitute violations of the laws of the State of Maine with regard to speed restrictions, operation of a vessel so as to endanger persons or property, reckless operation of a vessel, and operation of a vessel under the influence of drugs or liquor, which such restrictions are set forth in Title 38, M.R.S.A., Section 285, shall be subject to the penalties set forth in state law.

In addition to the monetary penalties set forth herein, a violator of this ordinance shall also be subject to an order of abatement of the violation as set forth in Title 30-A, M.R.S.A., Section 4452, as amended from time to time; and that violator shall further be subject to an action by the Town of Bremen, in a court of competent jurisdiction, for injunctive relief in order to prevent or abate violations of this ordinance.

III. SEPARABILITY

If any provisions or clause of this Ordinance or application thereof to any person, persons, or circumstances is found to be invalid by the Courts, then such invalidity shall not affect any provisions or applications of the Ordinance which can be effectuated without the invalid provision or application. To this end, provisions of this Ordinance are declared severable.

III. HARBOR ADMINISTRATION

A. Administering Bodies and Agents

1. HARBOR COMMITTEE: The Harbor Committee shall be elected to three year staggered terms, with one member elected each year at the Annual Town Meeting, and will consist of three (3) voting members. In the first year, the Town shall elect three (3) members, one (1) for one year, one (1) for two years, and one (1) for three years. The Harbor Committee will exist for the general purpose of aiding the Harbor-master and his/her deputies in the management of Bremen harbors and the administration of this Ordinance

2. APPEALS: The Appeals Board will hear appeals from those aggrieved by actions of the Harbor Master as it relates to the implementation and enforcement of the Ordinance. Appeals shall be submitted within thirty (30) days of the Harbor Master action. The appeal shall specifically describe the grounds for such action. Appeals from decisions of the Harbor Committee shall be to the Board of Appeals. Refer to the Board of Appeals Ordinance for the powers and duties of the Board of Appeals. The Board of Appeals shall utilize procedures in accordance with Sec. 2691 of 30-A M.R.S.A. at duly announced public meetings.

3. HARBOR MASTER: The Harbor Master shall be appointed annually by the Selectmen for a one year term. The Harbor Committee shall be consulted on all appointments and shall have the authority to refuse an appointment. The Harbormaster's powers are prescribed by Titles 12,17, and 38 of the Maine revised Statutes Annotated (M.R.S.A.).

4. HARBOR MASTER'S SALARY: The Harbor Master's salary shall be set at the Town Meeting in the year the Harbor Master is appointed and shall apply for the one year of the Harbor Master's appointed term.

ARTICLE VI. GENERAL REGULATIONS

Section 1. Fees

Mooring fees shall be payable in full to the Town of Bremen at the time of submitting a new Registration Application. Mooring fees are payable each year to the Town of Bremen and are in addition to either boat registration fees or the excise tax due on documented boats. Mooring fees may be changed from time to time as recommended by the Harbor Committee and approved by the Board of Selectmen. Fees not paid by August 15th, will be considered delinquent. Fees shall be used for the administration of this Ordinance and for the upkeep, maintenance and purchasing of Bremen's waterfront facilities. The schedule of fees shall include but not be limited to, the Mooring Priority List:

- A. Resident**
- B. Commercial Service Moorings (Rental Moorings)**
- C. Non-Resident**

Section 2. Application

A. Existing mooring locations shall be registered yearly by the Harbor Master on the basis one mooring per vessel (exceptions for existing winter location may be granted by the Harbor Master). No existing mooring site permit holder shall lose a current assignment in order to meet the objectives of the non-resident allocation requirements set forth in this Ordinance and no other rights shall vest beyond the permit period. By signing the mooring application, you attest to your sole usage of that mooring. Any other use shall constitute a rental and shall be assessed at the current yearly rental fee.

B. No mooring location shall be assigned until an application has been submitted to and approved by the Harbor Master and the mooring fee has been paid. Mooring assignments shall be renewed each year by filing a renewal application with the Harbor-master and by paying the mooring fee.

C. The application forms may request such information pertinent to the mooring as the Harbormaster and the Harbor Committee consider necessary and appropriate.

D. Each mooring shall be of sufficient size to hold the vessel for which it is to be used. Wooden mooring stumps are not acceptable. Vessel and / or mooring owners shall be liable for any damage caused by faulty or inadequate moorings.

E. Mooring Permit Number: The mooring permit holder must affix his assigned mooring permit number to the primary mooring buoy in at least two (2) inch letters of contrasting color, however winter buoys are exempted. Upon failure to display this number, the Harbor Master, after giving notice of deficiency, may attach the mooring permit number to the buoy and charge the cost to the mooring permit holder plus an administrative fee of twenty-five (\$25) dollars. If a mooring does not display a mooring permit number and cannot be otherwise identified, it shall be considered abandoned as defined in Article VII(H) pg. 17 concerning the process for abandoned moorings.

F. The Harbor-master shall, when assigning mooring locations, be guided by a mooring plan to be adopted by the Harbor-master, Harbor Committee, and Selectmen.

Section 3. Removal of Vessels

The Harbor-master is hereby authorized, and it shall be his/her duty to remove or cause to be removed any vessel or boat from any wharf in Bremen Waters, when so requested by the owner of said wharf, and if the person given notice does not comply with the notice, without delay, the Harbor-master shall make or cause the removal of the vessel, boat or raft. In addition, the Harbor-master shall have the authority to remove vessels as set forth in Title 38, M.R.S.A., Section 5.

Section 4. Obstruction of Other Vessels

The Harbor Master shall, upon complaint to him/her by the master, owner or agent of the owner of any vessel, cause any other vessel or vessels obstructing the free movement or safe anchorage of such vessel to remove to a position to be designated by him/her, and to cause without any complaint being made to him/her, any vessels anchoring within the channel lines, as established by the Town of Bremen or as otherwise provided by laws, to remove to such anchorage as he/she may designate. If such vessel has no crew on board or if the master or person in charge neglects or refuses to move such vessel, as directed by the Harbor Master, then the Harbor Master shall take steps to remove said vessel, in accordance with the provisions of Title 38; MRSA, Section 5.

Section 5. Obstruction of Navigation

No person shall place buoys, including fishing buoys or other floating structures of any type, within the boundaries of Bremen waters so as to cause obstruction or danger to navigation. Fishing buoys including lobster trap buoys shall not be located within a 20 foot radius of a boat mooring turning radius.

All moorings shall be so located or relocated so that the vessels will not impede navigation within the harbor nor endanger other vessels. If the Harbor Master shall find that any vessel is so moored as to impede navigation or to endanger other vessels, he may require that the owner of the mooring, or of the vessel secured thereby, take such steps that will prevent such impeding of navigation or endangering of other vessels; or in the alternative he may order that the mooring be removed and relocated. In requiring the removal of a mooring because of its danger to other moorings, the offending mooring shall be the first ordered to be removed. Any persons so ordered by the Harbor Master acting under this paragraph, shall remove the same within 48 hours after ordered; provided, however that the case that the Harbor Master shall find an emergency requiring immediate action to prevent injury to life or damage to property, he may cause said mooring and any vessel attached thereto to be removed and relocated. Any expense involved shall be borne by the owner of the mooring or vessel being removed.

Section 6. Expense of Removing a Vessel

In the event that the Harbor Master removes a vessel as set forth in this ordinance, such removal shall be at the cost and risk of the owner of the vessel. The Harbor-Master shall charge a minimum of \$100.00, to be paid by the master or owner of the vessel, which charge, together with the cost of the crew and/or equipment for removing that vessel, the Harbor-master may collect by a civil action in the District Court, as set forth in Title 38, M.R.S.A., Section 5.

Section 7. Aquaculture

No aquaculture site involving the use of moorings, anchors, rafts and/or pens shall proceed without a permit. All such sites within the waters of Bremen Harbor shall have all required federal and state DMR permits before making application to the town. The project may impact other Town of Bremen Ordinances and require a public hearing. Application shall be made to the Harbor Master and Harbor Committee, who shall first

determine that the application is complete. The permit application can be found in appendix B or a copy may be obtained from the Town Clerk. The Application shall provide the following information:

A. Scope of the project: be specific – rafts, floats, how many, seasonal, year-round etc.

- 1. Chart or property map defining proposed project location i.e. tidal or over submerged lands.**
- 2. Type of operation: Species to be harvested, such as but not limited to shellfish, or fin fish farming.**
- 3. Proposed mooring / anchoring specifications.**
- 4. Location of existing moorings**

B. The Harbor Master and Harbor Committee shall make a decision to approve or deny an aqua-culture permit within 30 days. A permit shall be approved as long as the requested use will not unreasonably interfere with:

- 1. Public health,**
- 2. Safety,**
- 3. Navigation**
- 4. Orderly administration of the Harbor.**
- 5. Existing fishing or clamming areas.**

C. If an application is denied, the applicant may appeal the decision to the Appeals Board in accordance with Article V section A paragraph 2.

D. The Board of Selectmen shall annually set fees for aqua-culture applications and aqua-culture mooring permits. Violations of this section shall be subject to the penalty provisions of Article III.

ARTICLE VII

REGULATIONS CONCERNING DOCKS, FLOATS, LAUNCHING RAMPS AND MOORINGS

Section 1. Town Docks, Floats and Berthing Slips

The following regulations shall pertain to the use of the Town floats at the Town Landing. No person shall leave a vessel moored, unless the person has permission of the Harbor Master. The Harbor Master or his deputy (if applicable) shall ensure that the Town Pier and floats are maintained and that the outboard side of the Town Float is kept open for pick up and drop off of passengers and to allow for emergency access to the water by the Fire Department and/or the First Responders. Boat tieup for repairs shall be allowed on the southern end of the float only for a period of up to 48 hours. Periods longer than 48 hours shall require notice to and authorization of the Harbormaster. Town floats will normally be available for use from May to October.

The Harbor Master may assign numbers annually to dinghies, tenders, skiffs and other watercraft regularly tied to any town float. These numbers shall be visibly attached to the boat. Said boats shall not be over 18 feet in length and shall be tied to designated floats only. Such watercraft must be properly and reasonably maintained. The owner of any watercraft which is not maintained, secured, and town registered , if applicable, may lose any privileges to tie to said town float, and the watercraft shall be removed at the owner's expense. No lobster traps or other equipment shall be stored on the town floats or the Town Landing for more than two (2) days except with permission of the Harbor Master.

Section 2. Moorings

A Priority List:

Mooring locations shall initially be assigned to those Bremen residents owning vessels and occupying mooring locations as of September 1, 1990. Not more than three mooring locations shall be assigned in this way to any such residents. Within space available, future requests for mooring locations are subject to space availability and Harbor Master Approval. Mooring requests that exceed the maximum allowed will be considered on an individual basis, as space permits and must be private for use with a boat, fisherman's float or service mooring request, as the Ordinance allows. **THESE APPLY WITH THE EXCEPTION OF THE HOCKOMOCK CHANNEL/KEENE NARROWS AREA IN WHICH MUNICIPAL RESIDENT COMMERCIAL FISHING WATERCRAFT WILL RECEIVE FIRST PRIORITY OVER ALL OTHERS EXCEPT FOR MOORINGS DESCRIBED IN 1. and 2. below and are limited as follows and will be treated in accordance with the following priorities:**

- 1. Shorefront residents requesting an initial single location adjacent to their property or as provided by State law T.38 M.R.S.A., Section 3. Maximum 3 moorings.**
- 2. Grand-fathered moorings of town residents as described above. Maximum 3 mooring**
- 3. Resident commercial fishing watercraft owners. Maximum 3 moorings.**
- 4. Resident pleasure watercraft owners. Maximum 3 moorings.**
- 5. Resident commercial fishing watercraft owners requesting multiple locations. The specific number allowed shall be determined by the Harbor Master and the Harbor Committee. This shall include moorings necessary to hold a "fisherman's float" used for loading and unloading of fish and supplies.**
- 6. Resident commercial watercraft other than fishing requesting multiple mooring locations. The specific number allowed shall be determined by the Harbor Master and the Harbor Committee. This category includes rental moorings and non-fishing commercial marinas.**
- 7. Non-resident pleasure watercraft . Maximum one(1) mooring.**
- 8. Non-resident commercial fishing watercraft multiple locations. . Maximum two (2) moorings.**

9. All others. Maximum one (1) mooring.

10. Additional moorings may be granted after the maximum has been met subject to space availability with Harbor Master and Harbor Committee approval with the exception of categories 7, 8, and 9.

B. WAITING LISTS:

If the Harbormaster receives more applications for mooring privileges in areas deemed congested by the Harbor Master & Harbor Committee on State owned lands that are controlled by its rules or ordinances than there are mooring spaces, the municipality shall assign spaces as they become available from a waiting list in accordance with the priority schedule in this ordinance. Waiting lists in effect at the time that this section becomes law may continue in effect, but persons shall be selected from those lists in accordance with the priority schedule in this ordinance. If at the time a person applies for a mooring and there is no waiting list, that person shall be assigned a mooring without regard to the priority as space permits (allows)

C. ALLOCATIONS TO NON-RESIDENTS:

1. If there are applicants who are non-residents who wish to moor a vessel, the principal use of which is non-commercial, and if less than 10% of the moorings are currently assigned to persons fitting this description, the next mooring available shall be assigned to the first person on the list.

2. If there are applicants who are non-residents who wish to moor a vessel, the principal use of which is commercial and less than 10% of the assigned moorings are currently assigned to persons fitting this description, the next mooring space available shall be assigned the first person on this list. At the time a person applies for a mooring and there is no waiting list, that person shall be assigned a mooring without regard to the priority list as space allows.

3. If both non-resident non-commercial and non-resident commercial assignments are below 10%, and there are both types of applicants on the waiting list, the available space shall be assigned to an applicant in the category that is the farthest below 10%. The burden of proof in determining residence and the principal use of the vessel shall be upon the applicant.

4. Any non-resident who resides in a Maine municipality with mooring space and privileges shall not encroach upon the mooring privileges as hereby ordained, other than in case of dire need, until those non-residents have used the available mooring space in their town. The burden of proof of their town's full capacity is upon the non-resident applicants. It is our Town's intent to provide the inland towns of Maine priority over other coastal Maine towns within the 10% law, of the State of Maine, Sec.6. 38 M.R.S.A. 1.

D. PERMIT

- 1. No mooring shall be placed or moved by anyone except with written approval of the Harbor Master and/or his authorized agent.**
- 2. Mooring assignments shall not be transferred without written permission of the Harbor Master and the Harbor Committee.**

Transfer is authorized for private commercial fishing moorings at the request or death of the permittee and is limited to family members only per Title 38 Chapter 1 Section 3A. and only if the mooring permit will continue to be used for private commercial fishing. For purposes of this section, "family member" means only the permittee's parent, child or sibling, by birth or adoption, including a relation of half blood or a permittee's spouse.

- a. Moorings may also be transferred as a commercial fishing lifetime mooring to be assigned, by lottery, to a Bremen Resident commercial fisherman**
- 3. Assignments shall not be rented unless the provision for rental was part of the agreement when the mooring was assigned or renewed. Rental Moorings are subject to authorization and approval by the Harbor Master and the Harbor Committee.**
- 4. Priority list categories 7 through 11 are not allowed rental moorings, which are reserved for resident and /or property owners.**
- 5. All moorings shall be of sufficient size to hold the Vessel or Float for which it is to be used.**
- 6. There shall be no rafting of two (2) or more unattended vessels. Mooring permit holders shall be liable for any damage caused by faulty or inadequate moorings.**
- 7. Suggested tackle standards are available in the Harbor Masters office or Town Office.**

E. COMMERCIAL MARINE FACILITY RENTAL MOORINGS

- 1. Mooring Permits For Commercial Fishing Marine Facility: The Harbor Master shall have authority to approve or disapprove a mooring permit application and/or assigning a mooring location to a Commercial Fishing Marine Facility only after a public hearing is held on the application, attended by the Harbor Master, the appropriate Deputy Harbor Master(if applicable) and Harbor Committee. Mooring Priority 5.**
- 2. Private Commercial Marine Facilities**
 - a. Mooring or Berth Permits for Private Commercial Marine Facility may be granted preliminary approval by the Planning Board.**
 - b. Final approval is determined after all Federal, State and local guidelines, laws and regulations have been met, a Harbor Plan has been filed with the Harbor Master, Harbor Committee and Town Office which designates the full scope of the proposed Marina including, but not limited to, placement, parking, mooring areas, dock areas, services offered and other pertinent information that may be deemed necessary to make a determination.**

When all guidelines have been satisfactorily met the Harbor Master and the Harbor Committee shall hold a public hearing after which a determination will be made within 45 days after the public hearing. Mooring Priority 6.

3. Moorings of a Commercial Marine Facility in operation as of the date of passage of this amendment shall be grandfathered concerning location and number of moorings.

However, the sale or transfer of 50% or more of the assets and/or ownership of such Commercial Marine Facility will require the Commercial Marine Facility to review with the Harbor Master and the Harbor Committee, such factors as use history, future development and other prevailing conditions and to reapply for both the number and location of moorings desired.

4. Applications for moorings by any Commercial Marine Facility subsequent to the enactment of this amendment may be restricted as to the number and location of moorings granted and/or the length of time the moorings are granted; such restriction being within the discretion of the Harbor Master with consultation of his Deputies and the Harbor Committee, taking into such consideration all factors they deem relevant.

5. Rental moorings shall be identified and maintained by the Commercial Marine Facility in accordance with such conditions as may be placed on the permit by the Harbor Master, and all such moorings shall be clearly marked at all times by such size and color markings, as may be required to indicate the maximum boat size allowed on the mooring.

6. Within two (2) years of the date of enactment of this amendment, and for all years thereafter, all Commercial Marine Facilities renting moorings or berths shall prominently exhibit a sign providing the locations of all existing facilities for the pumping out of human waste then currently available in Bremen Waters .

7. A Commercial Marine Facility shall not be allowed on an open and/or conditional clamming area.

E. TRANSIENT MOORINGS SHALL MEET THE REQUIREMENTS OF ARTICLE VII SECTION 2E PARAGRAPH 5 ABOVE

G. MOORING STANDARDS AND INSPECTION

1. All moorings including chains and pennants, shall be inspected yearly by the owner or his / her representative.

The Harbor-master shall maintain a written record of the basic information on each mooring within these designated areas including the assigned location, identification number, vessel description, size, date mooring last was inspected, registered owner and other data deemed useful, including a chart of the relevant harbor, showing current mooring locations, assignments and their numbers.

H. ABANDONED MOORINGS

1. Any mooring location not occupied or used for a period of one year and without prior notice to and approval of the Harbor Master may be deemed abandoned and the location may be re-assigned by the Harbor Master in accordance with the above priority guidelines. The cost of removing moorings shall be assessed to the owner if not removed by him within thirty (30) days of receipt of

notice from the Harbor-master. The Harbor Committee may waive the provision of this section for good cause shown by the mooring owner or his representative. Payment not received for moorings by September 1st or before will be determined abandoned unless a payment plan has been agreed upon with the Town Clerk.

J. ANCHORAGES

1. Transient vessels shall not be permitted to anchor unless approved by the Harbor-master except in an emergency situation. The Harbor Master shall be so advised within 24 hours.

J. CHANGE OF USE

1. The Harbor-master shall be promptly notified of a proposed change in use or vessel of a mooring site
2. A private mooring / boat-slip facility converting to a commercial mooring / boat-slip facility shall meet all commercial marina standards .
3. Conversion shall require submission of new permit applications meeting current standards of the Shoreland Zoning Ordinance and the Harbor Ordinance and other ordinances deemed pertinent

J. PROHIBITIONS AND VIOLATIONS

1. Houseboats are not allowed mooring assignments and may only dock temporarily at approved marinas with a human waste pump out station.
2. Guest moorings are temporary and not to be used by the same vessel in excess of 14 days. The mooring capacity must be greater than or equal to the requirements of the vessel using the mooring.
3. No person shall moor a vessel, boat, raft, or scow to any buoy or beacon placed by the Town in Bremen waters to define the channel of vessels, mooring areas, or in any manner make the vessel fast thereto.
4. No mooring shall be relocated by its owner or representative without prior approval by the Harbor Committee and the filing of a new application. In the event of emergency the move shall be temporary.
5. All persons operating kayaks within Bremen coastal waters shall display a minimum of a 8 inch by 11 inch safety orange flag on a mast extending a minimum of four (4) feet vertically from the kayak for improved kayak visibility by other boaters.

Article VIII Regulations concerning construction of piers, wharves, breakwaters, bulkheads, landfill, docks and floats

Section 1. Permit Approval Requirement

No mobile boat hoists, piers, wharves, bulkheads, breakwaters, marine railways or other structures shall be constructed, enlarged or improved except upon approval and issuance of a permit in accordance with Article VIII Section 2 of this Harbor Ordinance.

Section 2. Procedure for Permit

A. Construction, renovation, or improvement of a mobile boat hoist, pier, wharf, bulkhead, breakwater, marine railway or other structure shall require an application to the Planning Board of the Town of Bremen. Written application shall include the following information:

- 1. Evidence of submission of application for applicable State licenses, permits and approvals.**
- 2. Evidence of submission of application for applicable Army Corps of Engineers licenses, permits and approvals.**
- 3. A site plan, stamped and sealed by an engineer, registered in the State of Maine, at a scale of not greater than 1 inch to 20 feet. The plan shall show:**
 - a) The length and width of the proposed project;**
 - b) The harbor line and wharf line, mean high water and mean low water;**
 - c) Side property lines as extended from the upland across the shores and flats.**
- 4. An elevation showing the height of the structure in relation to mean high water and mean low water.**
- 5. A pier or wharf section.**
- 6. A plan showing the location and type of lighting.**

B. A permit under this section shall not be issued by the Planning Board until all applicable State licenses, permits and approvals and Federal licenses, permits and approvals and local approvals under this section have been received.

C. The Planning Board shall review the application for compliance with paragraph (A) above and the applicable requirements of the Town of Bremen Shoreland Zoning Ordinance. In the event the Planning Board determines the application is complete, then the application, together with related documents shall be dated and forwarded within 10 business days to the Harbor Committee. The Harbor Committee shall within 10 business days of the date of receipt, convene a meeting for review of the application. A formal REVIEW PERMIT shall be issued by the Harbor Committee and shall specifically address the standards listed in this section, shall state the reasons for the approval or denial and shall be forwarded to the Planning Board for their review and action.

1. That the proposed project will not:

- a) Encroach into, interfere with, or pose a hazard to navigational channels**
- b) Interfere with access to and from existing mooring and berthing areas for both commercial and recreational uses.**
- c) Displace or eliminate the existing mooring and berthing areas, public and private, commercial and recreational.**
- d) Interfere with public access to and use of the Harbor waters.**
- e) Reduce or interfere with existing shell-fishing and clamming areas, and access thereto.**
- f) Block or interfere with public rights of passage and uses of the shores and flats.**

g) Adversely affect small recreational boating activities.

D. Upon receipt of the review permit by the Harbor Committee, the Planning Board will hold a Public Hearing in conjunction with the Harbor Committee and shall either approve, approve with conditions or disapprove the proposed project, in accordance with the standards of Article VIII, Section 2, (A) of this Harbor Ordinance.

- 1. If disapproved, the disapproval shall be in writing and shall include the reasons for disapproval.**
- 2. If approved, the approval shall be in writing and shall not be effective until approval by the Planning Board under Site plan review**

E. Construction of approved projects shall commence within one year from the date of approval by the Planning Board and shall be completed within two years from the date of issuance of the building permit.

F. The decision of the Planning Board concerning issuance or denial of the permit may be appealed in accordance with Board of Appeals Ordinance, by the aggrieved party within 30 days of the date of decision and in accordance with Rule 80B of the Maine Rules of Civil Procedure.

G. Notwithstanding the above provisions of Article VI, Section 2, regular maintenance and emergency repair of piers, wharves, mobile boat hoists, breakwaters, or bulkheads, as defined below, shall not require a permit under the Harbor Ordinance, EXCEPT as stated expressly in the following paragraphs of this provision.

In the event that regular maintenance or emergency repairs to piers, wharves, or mobile boat hoists require the removal of existing pilings and the replacement of those pilings along the outermost side of the pier or wharf facing the waters of the harbor, then the person causing such normal maintenance or emergency repairs shall submit to the Planning Board a site plan, stamped and sealed by an engineer, registered in the State of Maine, at a scale of not greater than one inch to twenty feet, which shows specifically the location of existing pilings and decking for the pier, wharf, or mobile boat hoists and the proposed locations of new or replacement pilings and decking in connection with 'such normal maintenance or emergency repairs.

Any person causing such normal maintenance or emergency repairs shall submit to the Planning Board, together with the building permit application for such work, required by the Bremen Shoreland Zoning Ordinance, a description of the work for such normal maintenance or emergency repairs which provides the Planning Board with sufficient information to determine whether the proposed project conforms with the meaning of "regular maintenance" or "emergency repairs" as set forth in this provision.

In the event that the Planning Board determines that insufficient information has been provided by the applicant for the building permit, the Planning Board can request additional information,

If the Planning Board determines that the applicant for the building permit proposes to perform work which does not constitute regular maintenance or emergency repairs, then the Planning Board shall direct that applicant to obtain a permit in accordance with the provisions of Article VIII, Section 1 of this Ordinance.

The person causing regular maintenance or emergency repairs shall take photographs of that maintenance or repair, both before and after the completion of work. Such photographs shall be submitted to the Planning Board and retained as a permanent record with a copy of the building permit delivered to the Harbor Master.

For purposes of this provision, "regular maintenance" shall mean restorative work, including replacing decking, and refurbishing of portions of the decking or pilings of wharves, piers, or mobile boat hoists for the purpose of preserving those structures and maintaining the structural integrity of those structures and in order to counteract the effects of usual wear and tear caused by the use of those structures in marine related activities.

For purposes of this provision, "emergency repairs" shall mean replacement and relocation of pilings, decking, or underpinning replacement which requires rapid action in order to avoid a dangerous condition which threatens life or injury to any person or which threatens property damage; emergency repairs shall include, by way of illustration, repairs arising out of storm damage, fire, and the threat of imminent collapse of a pier, wharf, or mobile boat hoist.

Section 3. Landfill

There shall be no landfill beyond the harbor line in any of the harbor areas, except as may be required for the proposed construction of a municipal pier or municipal boat launching ramp. Construction shall meet all Town Ordinances as well as State and Federal Requirements

Section 4. Floats and Ramps

Floats and ramps attached to piers, wharves, bulkheads, or breakwater shall be approved by the Harbor Master and the Harbor Committee following the same procedure for a REVIEW PERMIT.

1. A float with connecting ramp may be extended to no more than 50 feet beyond the end or outer edge of the pier, wharf, breakwater or bulkhead as measured to the outside edge of the float.

2. Municipal piers and municipal launching ramps shall be exempt from (1).

BREMEN HARBOR ORDINANCE
****SECT VIII****

CHECKLIST FOR PIERS, WHARVES, BREAKWATERS, BULKHEADS, LANDFILL , DOCKS , FLOATS

1. application to Planning Board (PB) with state and/or federal permit applications and/or approvals (DEP, ACOE)
2. site plan - stamped and sealed by an engineer licensed by the State of Maine. Scale not greater than 1(one) inch to 20 feet.
3. plan shall show:
 - length and width of project
 - harbor line and wharf line
 - mean high water line and mean low water line
 - sideproperty lines as extended from the upland across shore and flats
 - elevation showing height of structure in relation to mean high water and mean low water a pier or wharf section
 - plan showing location and type of lighting
4. permit shall not be issued by PB until all applicable State, Federal permits, licenses, approvals and local approvals under this section have been received.
5. PB shall review application in relation to Bremen Shoreland Zoning Ordinance. If PB determines application is complete:
 - application and all related documents shall be DATED and forwarded within 10 (TEN) business days to the Harbor Committee (HC)
6. the HC shall - within 10 (TEN) business days of the date of RECEIPT shall review application. a formal REVIEW PERMIT shall be issued by the HC and shall specifically address:
 - the standards listed, shall state the reasons for approval or denial and shall forward to PB for their review and action.
 - (those standards are listed in the ordinance -ART..VIII-C 1- a-g)
7. upon receipt of REVIEW PERMIT the PB will hold a PUBLIC HEARING in conjunction with the HC and shall then either approve,
 - approve with conditions or disapprove the proposed project. (see ordinance for disapproval procedure)
8. construction of approved projects shall commence within one year from date of approval by PB and shall be completed within 2(two) years
 - from date of issuance of the building permit.
 - (please see ordinance for regular maintenance and repair procedures)
9. there shall be no landfill beyond the harbor line in any of the harbor areas (excluding municipal piers,etc)
10. FLOATS and RAMPS attached to piers, wharves, bulkheads or breakwaters shall be approved by the Harbor Master and the HC following the same procedure for a REVIEW PERMIT.
11. a float with connecting ramp may be extended to NO MORE than 50 FEET beyond the end or outer edge of the pier, wharf, breakwater or bulkhead as measured to the outside edge of the float.
 - (municipal piers and ramps are exempt from this restriction)

APPENDIX A

Suggested Mooring Specifications

All moorings should meet the minimum standards as set below prior to placement. These standards are set for normal weather conditions. In the event of gale winds or stronger and/or extreme tides, it is the mooring owner's responsibility to ensure certain precautions are taken. The Town of Bremen realizes that mooring loads are variable, that it is impossible to say that all boats of equal length require the same size mooring, and such standards cannot be applied to all boats. The Harbormaster or it's designee, reserve the right to require a boat owner to increase the minimum mooring standard for any vessel should they feel the minimum standard would be inadequate for the vessel because of unusual design, such as but not limited to excessive weight, windage, or draft.

Furthermore, the Town of Bremen shall not be held liable for any damage inflicted if a minimum standard mooring fails. The safe serviceable condition and adequate size of all mooring equipment is the ultimate responsibility of the mooring permit holder. The prudent seaman rule shall apply.

Suggested Granite Mooring Specifications

Vessel Length	Granite Dry Weight	Bottom & Top Chain		Pennant Size
0-16	1000#	1/2"	3/8"	1/2"
17-22	2000#	3/4"	3/8"	1/2"
23-30	4000#	1"	1/2"	5/8"
31-40	5000#	1"	1/2"	3/4"
41-50	6000#	1"	5/8"	1 1/4"
51 +	Harbormaster Approval			

All granite moorings shall have a minimum staple diameter of 1 ".

All Moorings

Any mooring other than a granite block or Mushroom anchor shall be at the Harbormasters discretion.

The bottom chain length shall be at least the depth of the water at mean low water (MLW) and the combined chain length shall be two (2) times the total depth at mean high water(MHW). All chain and connecting shackles should be of USA manufacture and shackle pins should be secured with multi-strand SS wire. All shackles should be a minimum of one size larger than the chain it's attached to.

Suggested Mushroom Anchor Mooring Specifications

Vessel Length	Anchor	Mushroom		Pennant (Nylon)	
		Bottom	Top Chain	Size	Length
Up to 15 ft.	150 Lbs.	5/8"	3/8"	5/8"	3 - times
Up to 20 ft	200 Lbs.	3/4"	3/8"	5/8"	Height
Up to 25 ft	250 Lbs.	3/4"	1/2"	3/4"	OF Bow
Up to 30 ft	300 Lbs. .	3/4"	1/2"	7/8	Above
Up to 35 ft	350 Lbs. .	1"	1/2"	1"	Water +
Up to 40 ft	400 Lbs.	1"	5/8"	1- 1/8"	Cleat
Up to 45 ft	500 Lbs.	1"	5/8"	1 -1/4"	Distance
51 +	Harbormaster Approval				To chock

Heavy Chain should be 1.5x the depth at high tide. Light chain should be the length of the high tide depth

Mooring buoys may be inflated, formed, molded or fabricated from Styrofoam, rubber, plastic or fiberglass and should be a minimum of 18 inches in diameter.

All Guest, Rental, Transient and Service moorings shall be white and marked with the "Owner's Identification", "Mooring Number" and "Maximum Boat Length".

All private moorings shall be marked with the "Owners Name" and "Mooring Number".

The use of wood mooring spars is prohibited.

Winter mooring markers shall not be installed prior to September 15 and must be removed prior to June 15

Pennants should be made of nylon or other Harbor-master approved line type and should have proper chafe gear. The pennant length shall be three times the height from the bow chock to the water, plus the distance from the chock to the cleat on deck.

APPENDIX B

HARBOR MASTER **PERMIT APPLICATION*****

AQUACULTURE when completed by applicant and submitted approval or denial shall be made within 30 days of receipt by Harbor Master.

Date submitted to Town Clerk:

Name(s):

Address:

Location of Proposed Site - be specific- highlight map, lot and map pages:

Type: Tidal

Submerged Lands

Scope of Project: be specific - rafts, floats, etc? How many?

Seasonal or year round:

Species to be harvested: Mooring/Anchorage specs:

Existence of present moorings:

If yes, how many:(check Town Office files- not just visual inspection)

HARBOR MASTER FINDINGS DATE REC'D:

APPROVED:

DENIED:

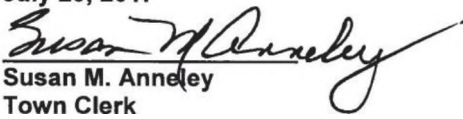
Does this application interfere with or affect: Public health, safety, navigation, orderly administration of the harbor.



TOWN OF BREMEN
PO BOX 171, 208 WALDOBORO RD
BREMEN, MAINE 04551
(207) 529-5945 • FAX (207) 529-6302

LAND USE ORDINANCE
FOR THE TOWN OF BREMEN, MAINE

Enacted: July 20, 2017

Certified by: 
Susan M. Anneley
Town Clerk

**LAND USE ORDINANCE OF THE
TOWN OF BREMEN, MAINE**

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SECTION I: GENERAL PROVISIONS

1.1. TITLE

This Ordinance shall be known as and may be cited as the "Land Use Ordinance of the Town of Bremen, Maine," and may be referred to herein as the "Ordinance."

1.2. AUTHORITY

This Ordinance is adopted pursuant to Home Rule Powers as provided for in Article VIII of the Maine Constitution and 30-A M.R.S.A., Section 4352 and 38 M.R.S.A., Section 435 et seq.

1.3. PURPOSES

The purposes of the Ordinance are as follows:

1. **COMPREHENSIVE PLAN IMPLEMENTATION:** To implement the policies and recommendations of the Bremen Comprehensive Plan (comprehensive plan).
2. **PROTECTION OF THE GENERAL WELFARE:** To assure the comfort, convenience, safety, health and welfare of the present and future inhabitants of the Town of Bremen (Town).
3. **PRESERVATION OF THE TOWN CHARACTER:** To preserve and protect the character of the Town, the use of land and buildings, and the intensity of such uses.
4. **PROTECTION OF THE ENVIRONMENT:** To protect and enhance the natural, cultural, and historic resources of the Town from unacceptable adverse impacts and to integrate new development harmoniously into the Town's natural environment.
5. **PROMOTION OF COMMUNITY DEVELOPMENT:** To promote the development of an economically sound and stable community.
6. **PROMOTION OF TRAFFIC SAFETY:** To lessen the danger from traffic on roads and highways; limit excessive numbers of intersections, driveways, and other friction points; and minimize hazards to the safe and uninterrupted movement of vehicles on public roads.
7. **BALANCING OF PROPERTY RIGHTS:** To protect property rights and values by balancing the rights of landowners to use their land with the corresponding rights of abutting and neighboring landowners to enjoy their property without undue disturbance from abutting or neighboring uses.
8. **REDUCTION OF FISCAL IMPACT:** To provide a means of evaluating development proposals to determine their fiscal impact on the municipality's ability to provide and improve necessary public facilities and services.

9. ESTABLISHMENT OF PROCEDURES/STANDARDS: To establish procedures whereby the Town Officials may review the developments regulated by this Ordinance by providing fair and reasonable standards for evaluating such developments; to provide a public hearing process through which interested persons may raise questions and receive answers regarding how such developments may affect them; and to provide procedures whereby aggrieved parties may appeal decisions made under this Ordinance.

1.4. APPLICABILITY

This Ordinance shall apply to all land areas within the Town. All buildings or structures constructed, reconstructed, enlarged, and/or moved, including buildings undergoing alteration, and, the uses of buildings and land, including the division of land, shall be in conformity with the provisions of this or other applicable Town ordinances on the date of that action. No existing or future building, structure, or land area shall be used for any purpose or in any manner except as provided in the applicable ordinance.

1.5. CONFLICT WITH OTHER ORDINANCES

Whenever the requirements of this Ordinance are in conflict with the requirements of any other lawfully adopted rule, regulation, ordinance, deed restriction or covenant, the most restrictive or higher standards shall govern.

1.6. ABROGATION OF OTHER ORDINANCES

This Ordinance repeals and replaces the following previously enacted ordinances:

1. Minimum Lot Size Ordinance, enacted on March 24, 1984, and as amended.
2. Building Permit Ordinance, enacted on March 16, 1989, and as amended.
3. Commercial and Industrial Site Plan Review Ordinance, enacted on March 1, 2001, and as amended.

The repeal and replacement of these ordinances shall not prevent their enforcement with respect to the time periods in which they were in effect. It should be noted that there are several other Town ordinances in addition to this Ordinance that could apply to a given project. Compliance with the provisions of this Ordinance does not eliminate the need for an owner to comply with all other applicable Town ordinances.

1.7. SEVERABILITY

In the event that any section, subsection, or any provision of this Ordinance shall be declared by any court of competent jurisdiction to be invalid for any reason, such decision shall not be deemed to affect the validity of any other section, subsection, or other portion of this Ordinance; to this end, the provisions of this Ordinance are hereby declared to be severable.

1.8. AMENDMENTS

1. INITIATION: An amendment to this Ordinance may be initiated by one of the following:
 - Request of the majority of the Planning Board to the Board of Selectmen (Selectmen).
 - Request of the Selectmen to the Planning Board.
 - Written petition of ten (10) percent of the number of registered voters who voted in the most recent gubernatorial election.
2. HEARINGS: All proposed amendments shall be referred to the Planning Board for its recommendation. The Planning Board shall hold a public hearing on any proposed amendment. Within forty-five (45) days of the public hearing, the Planning Board shall make a written recommendation to the Selectmen.
3. SUBMITTAL TO TOWN MEETING: After receiving the recommendations of the Planning Board, the Selectmen may submit the amendment for adoption at a Town Meeting.

1.9. ANNUAL ADMINISTRATIVE REVIEW

The Code Enforcement Officer (CEO), Planning Board, and Board of Appeals each shall report annually to the Selectmen on their respective experience with the administration of this Ordinance during the previous year. Their reports to the Selectmen shall include any recommended amendments they may have that would:

1. Enhance their ability to meet more effectively their respective administrative responsibilities under this Ordinance.
2. Enhance the implementation of the purposes of this Ordinance contained in subsection 1.3.

1.10. EFFECTIVE DATE

The effective date of this Ordinance, when adopted, and any amendments thereto, shall be effective immediately following its/their adoption or approval at a Town Meeting. A copy of this Ordinance, certified by the Town Clerk, shall be filed with the Town Clerk and the Lincoln County Registry of Deeds.

SECTION II: NON-CONFORMING STRUCTURES, USES AND LOTS

2.1. BURDEN OF PROOF

The burden of establishing that any non-conforming structure, use, or lot is a lawfully existing non-conforming structure, use or lot as defined in this Ordinance, shall, in all instances, be upon the owner of such non-conforming structure, use, or lot and not upon the Town. In all cases, ownership shall be evidenced by a copy of the deed as registered in the Lincoln County Registry of Deeds, or for leased parcels by a copy of the Town Tax Maps.

2.2. CONVERSION TO CONFORMANCE ENCOURAGEMENT

Owners of all existing non-conforming structures and uses are encouraged to convert such existing non-conforming structures and uses to conformance whenever possible.

2.3. CONTINUANCE

The lawful use of any building, structure, or parcels of land that is made non-conforming by reason of the enactment of this Ordinance or a previous ordinance, or that shall be made non-conforming by reason of a subsequent amendment, may be continued, subject to the following provisions:

1. **EXISTING NON-CONFORMING STRUCTURES:** Continuance of non-conforming structures shall be subject to the following provisions:
 - a. A structure may not be enlarged or altered in any way that increases its non-conformity.
 - b. Should any structure, exclusive of the foundation, be destroyed, or damaged by any means, exclusive of planned demolition, said structure may be rebuilt on the existing foundation/footprint to the exact dimensions of the structure that was destroyed, provided rebuilding is begun within one year.
 - c. A non-conforming structure may be moved within its lot in a manner that would decrease its non-conformity in terms of setback requirements, provided that the Planning Board finds that the change in location would not substantially violate any provision of this Ordinance in regards to:
 - Location and character
 - Traffic and access
 - Signs and lighting
 - Potential nuisance
2. **EXISTING NON-CONFORMING USE OF STRUCTURES OR LAND:** Continuance of non-conforming use of structures or land shall be subject to the following provisions:

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- a. A structure devoted to a non-conforming use may not be enlarged or extended.
 - b. A non-conforming use may be extended throughout any parts of a building that were manifestly arranged or designed for such use at the time of the adoption or amendment of the applicable ordinance, but no such uses shall be extended to occupy any land outside such building.
 - c. A non-conforming use of a structure or premises may be changed to another non-conforming use provided that the Planning Board shall find that the proposed use is more consistent with the District's purpose than the existing non-conforming use. At no time, shall a use be permitted that is less conforming. Once changed, it shall not revert back to the previous non-conforming use.
 - d. If a non-conforming use of a structure or premises is superseded by a permitted use, the non-conforming use may not thereafter be resumed.
 - e. If any such non-conforming use of a structure ceases for any reason for a period of more than twelve (12) consecutive months, any subsequent use of such structure shall comply with standards specified by this Ordinance for the District in which such structure is located.
 - f. A structure housing an existing non-conforming use may be moved, within the lot, in a manner that would be a more appropriate location, provided that the Planning Board finds that the change in location would not substantially violate any provision of this Ordinance in regards to:
 - Location and character
 - Traffic and access
 - Signs and lighting
 - Potential nuisance
3. CONSTRUCTION BEGUN PRIOR TO ORDINANCE: This Ordinance may not require any change in the plans, construction, size, or designated use for any building, structure, or part thereof for which a completed application for a local permit has been made, provided the application has been subject to substantive review, or a permit that has been issued and upon which construction has been substantially commenced prior to the adoption or amendment of the Ordinance. Such construction shall start within sixty (60) days after the issuance of the permit.

2.4. NON-CONFORMING LOTS OF RECORD

A single parcel of land, the legal description of which or the dimensions of which are recorded on a document or map recorded in the Registry of Deeds on or before March 21, 1987 or in official Town records, that does not meet the lot area or width requirements or both, of the District in which it is located, may be built upon as an existing non-conforming lot of record even though such lot may be contiguous with any other lot in the same ownership, provided that all other provisions of this Ordinance are met.

2.5. TRANSFER OF OWNERSHIP

Ownership of land and structures that remain lawful but become non-conforming by the adoption or amendment of the Ordinance may be transferred and the new owner may continue the non-conforming uses subject to the provisions of this Ordinance.

SECTION III: ESTABLISHMENT OF DISTRICT

3.1. DISTRICT ESTABLISHMENT

For the purposes of this Ordinance, the Town is one General District. Those areas within the Shoreland Zoning Districts are also regulated by the Shoreland Zoning Ordinance.

3.2. STANDARDS ESTABLISHING DISTRICT AND DISTRICT DESCRIPTION

1. GENERAL DISTRICT

a. PURPOSE

The purpose of the General District (District) is to accommodate existing limited commercial, industrial, institutional, home occupation, low impact business, residential, retail, rural, forestry, agricultural, service, and public land uses while providing for similar future development.

b. AREAS INCLUDED

The entire Town.

Note: Also see the Shoreland Zoning Ordinance for the schedule of uses, land use standards, administration and enforcement, and definitions that are applicable to areas within the Shoreland Zone.

SECTION IV: SCHEDULE OF USES

4.1. ACTIVITIES DESCRIPTION

Tables listing the uses permitted under this Ordinance are found in 4.6. Schedule of Uses.

The various land uses contained in the tables are organized according to the following activity classifications:

- Resource Management Activities
- Resource Extraction Activities
- Residential Activities
- Institutional Activities
- Commercial Activities
- Industrial Activities
- Transportation Activities

4.2. SYMBOLS USED IN SCHEDULE OF USES

The following symbols contained in the Schedule of Uses have the following meanings:

1. DISTRICT SYMBOL

SYMBOL	DESCRIPTION
G	General District

2. PERMIT SYMBOLS

SYMBOL	DESCRIPTION
N	Use prohibited.
Y	Use allowed without a permit.
CEO	Use allowed with a permit issued by the Code Enforcement Officer (CEO) subject to all applicable standards, as found in this Ordinance.
PB	Use allowed with a permit from the Planning Board subject to all applicable standards, as found in this Ordinance.
LPI	Use allowed with a permit issued by the Licensed Plumbing Inspector (LPI).
S	Same as the Permitting Authority

4.3. USES SUBSTANTIALLY SIMILAR TO PERMITTED USES

1. **USES ALLOWED WITHOUT A PERMIT:** Uses substantially similar to those allowed without a permit, but that are not listed in the Schedule of Uses, may be permitted upon a written ruling by the CEO that such use is substantially similar to uses listed in the schedule.

2. **USES REQUIRING A CEO PERMIT:** Uses substantially similar to those requiring a CEO Permit, but that are not listed in the Schedule of Uses, may be permitted by the CEO.
3. **USES REQUIRING A PLANNING BOARD PERMIT:** Uses substantially similar to those requiring a Planning Board Permit, but that are not listed in the Schedule of Uses, may be permitted by the Planning Board.
4. **SUBSTANTIALLY SIMILAR:** In determining whether a proposed use is substantially similar, the CEO or Planning Board shall consider the requirements of this Ordinance and decide if that use does not materially affect the applicable requirements of this Ordinance or raise issues that need consideration by the Town.

4.4. USES SUBSTANTIALLY SIMILAR TO PROHIBITED USES ARE PROHIBITED

Uses substantially similar to any uses listed as a Prohibited Use in the Schedule of Uses shall be prohibited.

4.5 COMPLIANCE WITH PERFORMANCE STANDARDS REQUIREMENT

All permitted uses must occur and be maintained in compliance with the applicable requirements and performance standards contained in Section V.

4.6. BUILDING PERMIT REQUIREMENTS

Notwithstanding the permitting requirements for various proposed use activities included in Section 4.7 below, all new, relocated, or expanded buildings, including mobile homes shall be subject to the following permit requirements according to building size:

4.6.1	BUILDING SIZE	G
1.	Temporary Buildings	Y
2.	Buildings up to and including 100 square feet	Y
3.	101 square feet to 2,500 sf outside Shoreland Zone	CEO
4.	101 square feet and above for all buildings inside Shoreland Zone	PB
5.	2501 square feet – 20,000 square feet for commercial, institutional and industrial buildings outside Shoreland Zone	PB
6.	Any building over 20,000 SF	N

4.7 SCHEDULE OF USES

4.7.1.	RESOURCE MANAGEMENT ACTIVITIES	G
1.	Wildlife/fishery management practices	Y
2.	Emergency operations conducted for the public health, safety, or general welfare, such as resource protection, law enforcement, or search and rescue operations	Y
3.	Surveying and other resource analysis	Y
4.	Mineral exploration to discover or verify the existence of mineral deposits including road building materials, including the removal of	Y

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4.7.1.	RESOURCE MANAGEMENT ACTIVITIES	G
	specimens or trace quantities, provided such exploration is accomplished by methods of hand sampling, including panning, hand test boring, diggings, or other DEP accepted methods that create minimal disturbance and take reasonable measures to restore the disturbed area to its original condition	
5.	Non-commercial uses for scientific, educational, or nature observation purposes that are not of a size or nature that would adversely affect the resources protected by the District in which it is located	Y
6.	Access entrances, and Accessory uses and structures that are essential for the exercise of uses listed above	S
7.	Use of sludge	N
8.	Land-Based Marine Activities	Y
9.	Forest Management Activities	Y
10.	Agricultural Management Activities	Y
4.7.2.	RESIDENTIAL ACTIVITIES	G
1.	Single-Family Detached Dwelling	CEO
2.	Single-Family Mobile Home	CEO
3.	Multi-Family Dwelling: Duplex	PB
4.	Multi-Family Dwelling: 3 or more units, including apartments	PB
5.	Mobile Home Park	PB
6.	Nursing Home/Boarding Care	PB
7.	Home Occupation and related signage	Y
8.	Low Impact Business and related signage	Y
9.	Subsurface Sewage Disposal and Drilled Wells	LPI
10.	Access entrances, and Accessory uses and structures that are essential for the exercise of uses listed above	S
4.7.3.	COMMERCIAL AND INSTITUTIONAL ACTIVITIES	G
1.	Bank/Credit Union	PB
2.	Barber, Beauty Shop, unless a Home Occupation or Low Impact Business	PB
3.	Transient Accommodations (up to 4 guest rooms): Bed and Breakfast, Boarding House	Y
4.	Transient Accommodations (5 or more guest rooms), Boarding House, Motel, Hotel and Inn	PB
5.	Boarding Kennel/Veterinary Clinic	PB
6.	Campground	PB
7.	Cemeteries	CEO
8.	Places of Worship	PB
9.	Day Care Center	CEO
10.	Farm Stand	Y
11.	Fraternal Orders and Service Clubs	PB
12.	Fuel Oil Sales	PB
13.	Funeral Home	PB

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4.7.1.	RESOURCE MANAGEMENT ACTIVITIES	G
14.	Government Facilities and Services	PB
15.	Commercial Greenhouse/Garden Nursery/Silo/Food Production or related permanent structure	PB
16.	Marina	PB
17.	Medical Clinic	PB
18.	Motor Vehicle: Repair/Service/Sales/Supplies	PB
19.	Professional Office/Complex up to 20,000 square feet in floor area	PB
20.	Professional Office/Complex larger than 20,000 square feet in floor area	N
21.	Recreation based facilities, e.g., Golf Course	PB
22.	Restaurant with Interior Seating, Exterior Seating, Take-Out	PB
23.	Retail Store up to 10,000 square feet in floor area	PB
24.	Retail Store larger than 10,000 square feet in floor area	N
25.	Schools: Public and Private	PB
26.	Signage: Commercial and Institutional	CEO
27.	Subsurface Sewage Disposal and Drilled Wells	LPI
28.	Transfer/Recycling Station	PB
29.	Access entrances, and Accessory uses and structures that are essential for the exercise of uses listed above	S

4.7.4.	INDUSTRIAL ACTIVITIES	G
1.	Lumber Yard and Sawmill	PB
2.	Transportation Facility	PB
3.	Fixed (not mobile) Tank Bulk Oil and Fuel Tank Storage in excess of 500 gallons except for on-site heating and cooking purposes	PB
4.	Motor Vehicle: Automobile Graveyard/Junk/Salvage Yard/Recycling Facility	N
5.	Wholesale Business/Storage Facility up to 20,000 square feet in floor area	PB
6.	Wholesale Business/Storage Facility larger than 20,000 square feet in floor area	N
7.	Light Manufacturing Assembly Plant up to 20,000 square feet in floor area	PB
8.	Light Manufacturing Assembly Plant larger than 20,000 square feet in floor area	N
9.	Disposal of Toxic, Hazardous/Leachable Materials	N
10.	Subsurface Sewage Disposal and Drilled Wells	LPI
11.	Signage: Industrial	CEO
12.	Access entrances, and Accessory uses and structures that are essential for the exercise of uses listed above	S

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4.7.5.	TRANSPORTATION AND UTILITIES	G
1.	Airport terminal building and airport uses	N
2.	Land management roads and water crossings of standing waters and of State-defined major flowing waters	CEO
3.	Land management roads and water crossings of State-defined minor flowing waters	CEO
4.	Major utility facilities, such as transmission lines, water supply and sewage treatment facilities, but not including service drops	PB
5.	Minor utility facilities, including service drops	CEO
6.	Road construction projects, other than land management roads that are part of projects requiring Planning Board review	PB
7.	Road construction projects, other than land management roads	PB
8.	Signage: Transportation and Utilities	CEO
9.	Wireless Telecommunications Facility: up to 195 feet in height	PB
10.	Wireless Telecommunications Facility: greater than 195 feet in height	N
11.	Access entrances, and Accessory uses and structures that are essential for the exercise of uses listed above	S

SECTION V: LAND USE STANDARDS

SECTION USERS GUIDE: This section contains general dimensional and performance standards with which all development proposals submitted for approval pursuant to this Ordinance must comply.

The following Land Use Standards shall govern all Land Use Permits issued by the CEO and the Planning Board. In reviewing applications submitted pursuant to this Ordinance, the CEO or the Planning Board shall consider the following dimensional performance standards and make written findings that each applicable standard has been met prior to issuing final approval. In all instances, the burden of proof shall be upon the owner.

5.1. DIMENSIONAL STANDARDS

All structures and uses shall conform to the following dimensional requirements:

5.1.1. Dimensional Standard	G
Minimum Lot Size	40,000 square feet
Minimum Lot Size per Dwelling Unit	40,000 square feet
Minimum Continuous Road Frontage (along one roadway) excludes cul-de-sacs	100 feet
Minimum Front Setback	20 feet
Minimum Side and Rear Setback	20 feet
Minimum Separation of Detached Dwellings	25 feet
Maximum Structure Height (excluding chimneys, steeples, flagpoles, and towers that contain no habitable floor area)	35 feet
Maximum Height for Wireless Telecommunications Facility	195 feet
Minimum Setbacks for Wireless Telecommunications Facility	110% of the height from all lot lines, with exceptions: see Performance Standards
Maximum Average Slope of Land with Structures	20%
Maximum Lot Coverage (includes principal structures, accessory structures, and impervious surfaces, such as parking lots, driveways)	25% *
Campgrounds: Minimum Size	10 acres
Campgrounds: Maximum Size	25 acres

Notes: For purposes of setback calculations, structures include attached porches, decks, and any other attached appurtenances excluding steps that do not exceed twenty-five (25) square feet in size. Ramps for handicapped access are exempted from setback calculations.

*The Planning Board, under the authority in Section 11.5.4, may waive the lot coverage under specified conditions.

5.2 PERFORMANCE STANDARDS

1. **ACCESSORY USES:** An accessory use shall not include any use that substantially alters the nature or characteristics of the neighborhood or substantially differs from the character of the present use of the premises, as initially determined by the CEO and/or Planning Board.
2. **ACCESS ENTRANCE REQUIREMENTS:** Access entrances to roads shall be controlled in both location and design. Provision shall be made for adequate access to the development to safeguard against hazards to traffic and pedestrians in the road and within the development, to avoid traffic congestion on any road, and to provide safe and convenient circulation on public roads. All access entrances constructed after the adoption of this Ordinance shall be in accordance with the following standards.
 - a. **Angles.** In order to minimize turning time and driver confusion, entrances that permit traffic flow for ingress and egress must intersect the road at an angle of or as near to ninety (90) degrees as site conditions may permit and in no case less than sixty (60) degrees. Entrances that permit one-way access for ingress only or egress only shall form an angle of at least sixty (60) degrees with roads.
 - b. **Corner Clearance.** The minimum corner clearance for an access entrance to roadways must be seventy-five (75) feet for un-signalized intersections and one hundred twenty-five (125) feet for signalized intersections, except that the permitting authority may require increased corner clearance if the permitting authority reasonably determines that the proposed access entrance may significantly impact public safety or cause a reduction in posted speed.
 - c. **Drainage.** In accordance with 23 M.R.S.A., Section 705, as amended, culverts of size, length, and type as determined by the municipality must adequately protect the roadway to control erosion and runoff with best management practices.
 - d. **Emergency Vehicle and School Bus Access.** For public health and safety purposes, clear routes of access shall be provided and maintained for emergency vehicles and school buses to and around buildings, and posted with appropriate signage where applicable (e.g., fire lane - no parking). Roadbeds, bridges and culverts shall be capable of supporting forty thousand (40,000) pounds to accommodate firefighting equipment.

Access entrances (driveways) longer than two hundred (200) feet shall have a turnaround for emergency vehicles and school buses, with the inside radii of all turns no less than ten (10) feet. Driveways that serve only one single-family dwelling are exempted from these Emergency Vehicle and School Bus Access requirements.

- e. Grades. The maximum grade for access entrances shall be three (3) percent for the first forty-five (45) feet from the edge of the existing road. Thereafter, the grade shall not exceed seven (7) percent for entrances serving commercial, multi-family, and all other non-residential uses.
- f. Multiple Entrances per Lot. Uses on lots that generate fifty (50) or more vehicle trips per day (in accordance with the latest edition of the *Trip Generation Manual*, published by the Institute of Traffic Engineers) on a lot that has a minimum frontage of no less than three hundred (300) feet may not have more than two (2) entrances for access onto public roads.
- g. On-site Vehicle Circulation. Entrances shall have sufficient capacity to avoid queuing of entering vehicles on any public street. Entrances shall be designed with sufficient on-site turnaround area on the lot to enable a driver to exit the premises without backing onto a public right-of-way.
- h. Shared Entrances. Owners of adjacent properties are encouraged to construct shared entrances. Road frontage requirements, if any, may be reduced by twenty (20) percent when abutting property owners share one entrance. Provisions for vehicular connections to existing or future uses on adjacent properties are encouraged wherever feasible and to the maximum extent possible so as to minimize the traffic exit/enter movements.
- i. Sight Distance. The sight distance for access entrances on State or State aid roads shall meet or exceed 23 M.R.S.A., Section 704, et seq., *17-229 Maine Administrative Rules, Department of Transportation, Chapter 299: Highway Driveway and Entrance Rules*. The owner shall obtain a permit from the State before the Town issues a permit for a project on State or State aid roads. On Town roads, the sight distances listed in the Table of Sight Distance Minimums, below, must be met. Sight distance is measured in accordance with its definition. The permitting authority may require up to fifty (50) percent greater sight distances when at least thirty (30) percent of the traffic using the access point may be by larger vehicles, like trucks and buses that are typically forty (40) feet in length or longer.

5.2.i. Table of Sight Distance Minimums	
Posted Speed (MPH)	Sight Distance Minimum (Feet)
20	155
25	200
30	250
35	305
40	360
45	425
50	495
55	570

- j. Spacing Standards. All new access entrances shall be separated from other existing or proposed access points in accordance with the minimum spacing standards set forth in the Table of Minimum Access Point Spacing Standards, below. Access point spacing is measured from the edge of a proposed access point to the closest edge of adjacent existing access points, excluding radii. Access points located directly across the roadway (opposite side) from a proposed access point are not counted in applying the spacing standard.

5.2.j. Table of Minimum Access Point Spacing Standards	
Posted Speed (MPH)	Spacing Standards (Feet)
20	60
25	70
30	75
35	85
40	175
45	265
50	350
55	525

- k. Truck Loading/Unloading. In order to minimize traffic backups caused by parked delivery vehicles, non-residential uses that may be served by delivery vehicles must provide a clear route for such vehicles with appropriate design to allow for on-site turning and backing.
- l. Width. The two-way traveled portion of entrances shall be no less than twelve (12) and no greater than twenty-two (22) feet in width.

The width of an entrance is the distance across the entrance, excluding radii, measured parallel to the roadway. Driveways that serve only one single-family dwelling are exempted from these width requirements.

- m. Retrofits. When the owner of a property with an existing, non-conforming access point applies for a permit to upgrade or change the use of the property and/or the access point, the property owner may be required to establish a retrofit plan. The objectives of the retrofit plan may be to minimize the traffic and safety impacts of development by bringing the number, spacing, location, and design of accesses into conformance with the standards and requirements of these access management standards, to the extent possible without imposing unnecessary hardship on the property owner. The retrofit plan may include:
 - i. elimination of one or more access points if there are multiple access points onto a site.
 - ii. realignment or relocation of access points.
 - iii. provision of shared access points and/or cross parking lot connection
 - iv. access by means of a service drive or frontage road
 - v. restriction of vehicle movements (e.g., elimination of left-turns in and out.)
 - vi. relocation of parking.
 - vii. traffic demand management (e.g., a reduction in peak hour trips.)
 - viii. signalization.
 - ix. such other changes as may enhance traffic safety.
 - n. Frontage on Multiple Roads. Where a lot has frontage on two or more roads, the primary access to and egress from the lot shall be provided from the street where there is less potential for traffic congestion and for traffic and pedestrian hazards. Access from other roads may be allowed if it is safe and does not promote shortcutting through the site.
 - o. Design. All roadways shall be designed to harmonize with the topographic and natural features of the site insofar as practical by minimizing filling, grading, excavation, or other similar activities that result in unstable soil conditions and erosion, by fitting the development into the natural contour of the land, by avoiding substantial areas of excessive grade and tree removal, and by retaining existing vegetation during construction.
3. **AGRICULTURAL MANAGEMENT ACTIVITIES:** Agricultural practices shall be conducted in such a manner as to prevent soil erosion, sedimentation, and contamination or nutrient enrichment of surface waters.

4. AIR POLLUTION: Air pollution control and abatement shall comply with applicable Federal and State requirements.
5. ARCHAEOLOGICAL AND HISTORIC RESOURCES: If any portion of the development site has been identified as containing historic or archaeological resources, the development project shall be required to submit inspection reports performed by qualified professionals to the State Historic Preservation Commission (SHPC). The development project shall be altered in accordance with the SHPC recommendations.
6. BUFFERS: Buffers for commercial, industrial and institutional uses shall be provided and maintained:
 - a. Along property lines to shield varying uses from one another;
 - b. Along property lines when necessary to block prevailing winds to stop debris from leaving the site;
 - c. Along interior roads running parallel to roads exterior to the site in order to prevent driver confusion, particularly at night;
 - d. Along property lines when necessary to prevent any proposed lighting from interfering with residential property or with safe driving;
 - e. Along all parking areas to minimize their visual impact on adjoining traveled ways and properties.
 - f. Screening shall be provided and maintained:
 - i. To block the view to adjoining traveled ways and properties, in all loading areas, waste collection and disposal areas, parking areas for commercial vehicles, and outdoor storage areas;
 - ii. To deter entry to the site where there is a potential safety hazard to children.
 - g. All buffers and screening shall be durable and properly maintained at all times by the owner in a neat and sanitary manner and shall be so located within the property lines to allow access for maintenance on both sides without intruding upon abutting properties.
 - h. Natural features shall be maintained wherever possible to provide a buffer between the proposed development and non-compatible abutting properties and public roadways. When natural features such as topography, gullies, stands of trees, shrubbery, or rock outcrops do not exist or are insufficient to provide a buffer, other kinds of buffers shall be provided to satisfy the purposes stated above. Evergreens can be used as buffers, provided they are planted properly. An evergreen buffer requires two or three rows of staggered plantings. The rows should be five feet apart and the evergreens planted four feet on center.

7. **BUILDING/ STRUCTURE/ PREMISES - YARD MAINTENANCE STANDARDS:** All buildings, structures, and parts thereof permitted under this Ordinance may not present a hazard to public health or safety as determined by the Fire Chief or Permitting Authority, in accordance with State Statutes.
8. **CAMPGROUNDS:** Campgrounds shall conform to the minimum requirements imposed under State licensing procedures and the following (in cases of possible conflict, the stricter rule shall apply):
 - a. **Minimum lot size.** Campgrounds may not occupy less than ten (10) acres and no more than twenty-five (25) acres, and shall contain a minimum of five thousand (5,000) square feet of land, not including roads and driveways, for each site. Land supporting wetland vegetation and land below the normal high-water line of a water body may not be included in calculating land area per site.
 - b. **Setbacks.** The areas intended for placement of a recreational vehicle, a tent or shelter, and utility and service buildings shall be set back a minimum of two hundred fifty (250) feet from any property line or public road.
 - c. **Other structures.** Mobile homes, cabins, or similar permanent residential dwellings are prohibited. A recreational vehicle may not be stored or exhibited for sale within the campground.
 - d. **Only acoustic music is allowed outside in campgrounds.** Noise shall be reduced to 60dBA or less measured at the property line between the hours of 10 PM to 7 AM, including noise that is continuous or sustained.
9. **CONFORMANCE WITH COMPREHENSIVE PLAN, ORDINANCES, LAWS AND REGULATIONS:** All proposed development shall be in conformity with the Comprehensive Plan and with the provisions of all pertinent local ordinances and regulations, State laws, and Federal regulations.
10. **CONVERSIONS:** Conversions of existing structures from single-family to multi-family units, or, from seasonal to year-round multi-family use, may be permitted provided that:
 - a. Off-street parking plus maneuvering space shall be provided.
 - b. Approval of conversion plans by the fire, electrical, and plumbing inspector(s) as regulated by the National Fire Protection Association (NFPA) and 30-A M.R.S.A., Section 4215 et seq. is required prior to issuance of a land use permit.

- c. Each dwelling unit shall have its own toilet, sleeping, and cooking facilities, and no dwelling unit may share these facilities with any other dwelling unit.
11. DUST, FUMES, VAPORS, GASES, ODORS, GLARE, AND EXPLOSIVE MATERIALS: Emission of odors, dust, dirt, fly ash, and toxic fumes, vapors or gases shall comply with State and Federal standards.
12. EROSION AND SEDIMENTATION CONTROLS/STORM WATER MANAGEMENT: All new construction and development shall be designed to minimize surface water runoff from the site in excess of the natural predevelopment conditions. Where possible, natural runoff control features, such as berms, swales, terraces, and wooded areas, shall be retained, enhanced, or created in order to reduce runoff and encourage on-site infiltration of surface water runoff. Surface water runoff control systems shall be maintained as necessary to ensure proper functioning. The following measures relating to storm water management, erosion, and sedimentation control shall be included where applicable as part of projects submitted for review and approval under this Ordinance:
 - a. The Permitting Authority may require an owner to have an erosion and sedimentation control plan prepared by a licensed professional civil engineer or certified professional in erosion and sediment control, in accordance with the Maine Erosion and Sediment Control Handbook for Construction: Best Management Practices, latest revision, Maine Department of Environmental Protection (DEP). The Planning Board may require the review and endorsement of this plan by the Soil and Water Conservation District.
 - b. Regardless of whether an erosion and sedimentation control plan is required, erosion of soil and sedimentation of watercourses and water bodies shall be minimized by employing the following best management practices:
 - i. Stripping of vegetation, soil removal, and re-grading or other development shall be done in such a way as to minimize erosion.
 - ii. Development shall preserve outstanding natural features, keep cut-fill operations to a minimum, and ensure conformity with topography so as to create the least erosion potential and adequately handle the volume and velocity of surface water runoff.
 - iii. The development shall retain surface water runoff on the site to the greatest extent possible, and may not unreasonably increase the rate or volume of surface water runoff from the proposed site.

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- iv. Whenever feasible, natural vegetation shall be retained, protected, and supplemented.
 - v. The disturbed area and the duration of exposure shall be kept to a practical minimum.
 - vi. Disturbed soils shall be stabilized as quickly as practicable.
 - vii. Temporary vegetation or mulching shall be used to protect disturbed areas during development.
 - viii. Permanent (final) vegetation and mechanical erosion control measures in accordance with the provisions of the Maine DEP's *Best Management Practices for Erosion and Sedimentation Control* or the Maine Soil and Water Conservation Commission shall be installed as soon as practicable after construction ends.
 - ix. Until the disturbed area is stabilized, sediment in the runoff water shall be trapped by the use of debris basins, silt traps, or other acceptable methods.
 - x. The top of the cut or the bottom of a fill section may not be closer than ten (10) feet to an adjacent property, unless otherwise specified by the Permitting Authority.
 - xi. During grading operations, dust control shall be employed wherever practicable.
 - xii. Whenever sedimentation is caused by stripping vegetation, re-grading, or other development, it shall be the responsibility of the owner or developer causing such sedimentation to remove it from all adjoining surfaces, drainage systems, and watercourses and to repair any damage at the owner or developer's expense as quickly as possible.
 - xiii. Maintenance of drainage facilities or watercourses originating on or completely on private property is the responsibility of the owner to the point of open discharge at the property line or at a communal watercourse within the property.
13. **FLOOD HAZARD AREA:** When any part of a development is located in a Flood Hazard Area as identified by the Federal Emergency Management Agency, and by the Floodplain Management Ordinance, the site plan and/or application shall indicate that all principal structures on lots in the development shall be constructed with their lowest floor, including the basement, at least one foot above the 100-year flood elevation.

14. **HOME OCCUPATION:** Home Occupations shall be allowed as a business, profession, occupation, or trade conducted for financial gain. The use shall be accessory, incidental, and secondary to the use of the lot for dwelling purposes, and not change the residential character or appearance of the building and lot.

Home Occupations shall conform to the following standards:

- a. **Employees.** There may be no more than the equivalent of two (2) full-time on-site workers from outside the immediate family-in-residence.
- b. **Objectionable conditions** such as noise (no greater than 60 dBA as measured at the property line, including noise that is continuous or sustained,) vibration, smoke, dust, electrical disturbance, odors, heat, or glare that are detectible on abutting properties may not be permitted.
- c. **Prohibited Material.** Home occupations that involve use or storage of hazardous or leachable materials in excess of normal residential use may not be permitted.
- d. **Parking.** In addition to the off-street parking provided to meet the normal requirements of the dwelling, adequate off-street parking shall also be provided for the vehicles of the maximum number of users the home occupation may attract during peak operating hours.
- e. **Maximum Area.** Home Occupations shall occupy no more than one thousand five hundred (1,500) square feet of floor space.

Uses or activities that do not meet these standards shall be considered as Low Impact Business, Commercial, Industrial, or Institutional Uses or Activities and shall be reviewed under those applicable provisions of this Ordinance.

15. **INDUSTRIAL PERFORMANCE STANDARDS:** The following provisions shall apply to all permitted industrial uses:
- a. **Danger.** Material that is dangerous due to the risk of explosion, extreme fire hazard, chemical hazard, or radioactivity may not be used, stored, manufactured, processed, or assembled, except in accordance with applicable State and Federal codes and regulations.
 - b. **Ground Vibration.** With the exception of vibration necessarily involved in the construction or demolition of buildings, a vibration may not be transmitted outside the lot where it originates.

- c. Wastes. Liquid, solid, or hazardous wastes may not be discharged or dumped into any location not specifically designed to accept such waste, as determined by the Maine DEP, or into any river, stream, watercourse, storm drain, pond, lake, or wetland.
 - d. Noise. Noise may be no more than 60 dBA measured at the property line, including noise that is continuous or sustained, unless waiver by the Planning Board under Section XI.11.5.4.b is granted.
16. LIGHTING DESIGN STANDARDS: All exterior lighting shall be designed to minimize adverse impact on neighboring properties. The owner shall demonstrate that the proposed lighting is appropriate for the intended use. The Permitting Authority shall consider the hours of operation, the characteristics of the neighborhood, and the specific activities proposed in making its determination.

Exterior lighting shall conform to the following standards:

- a. Maximum Height. The maximum height of freestanding exterior lights may not exceed fourteen (14) feet, including the base.
 - b. Design. All exterior lights shall be downward full cutoff luminaires (5 M.R.S.A., Section 1769) that allow no direct light emissions above a horizontal plane through the luminaire's lowest light-emitting part.
 - c. Style. Maximum lighting at property lines may be no more than 10 foot-candles for surrounding non-residential uses, and 5 foot-candles for surrounding residential uses.
 - d. Restricted Use. When the activity is not in use, lighting shall be turned down to security level or turned off.
 - e. Signage. Illumination of signage shall be by downward full cutoff luminaires only.
17. LOT SIZE, SETBACK AND COVERAGE REQUIREMENTS: See 5.1. Dimensional Standards.
18. LOW IMPACT BUSINESS: Low Impact Businesses may be allowed as a business, profession, occupation, or trade conducted for financial gain, provided that such a business does not change the rural and/or residential character of the neighborhood.

Low Impact Businesses shall conform to the following standards:

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- a. Employees. There may be the equivalent of no more than four (4) full-time equivalent on-site workers.
- b. Conditions such as noise (no greater than 60 dBA as measured at the property line, including noise that is continuous or sustained,) vibration, smoke, dust, electrical disturbance, odors, heat, or glare, shall be kept to a minimum, and may not adversely affect neighboring properties.
- c. Prohibited Materials. Low Impact Businesses may not use or store hazardous or leachable materials in excess of normal residential use.
- d. Parking. In addition to the off-street parking provided to meet the normal requirements of an on-site dwelling, if any, adequate off-street parking shall be provided to meet all aspects of the Low Impact Business, including but not limited to parking for clients, employees, or other vehicles needed for the business and any other machinery such as tractors or trailers.
- e. Maximum Area. A building or accessory structure in use for the business may not exceed twenty-five hundred (2,500) total square feet. The aggregate of all permanent buildings in use for the business may not exceed seventy-five hundred (7,500) total square feet.

Uses or Activities that do not meet these standards shall be considered as Commercial, Industrial, or Institutional Uses or Activities and shall be reviewed under the applicable provisions of this Ordinance.

19. MANUFACTURED HOUSING: Manufactured housing shall meet 30-A M.R.S.A. Section 4358 as may be applicable and amended.

20. OFF-STREET PARKING:

- a. Minimum Requirements. The following minimum off-street parking requirements shall be provided and maintained in case of new construction, alterations, and changes of use:
 - i. Dwellings – Two (2) parking spaces for each dwelling unit.
 - ii. Transient Accommodations:
 1. Bed and Breakfast accommodations and motels, hotels, boarding houses, and inns with 4 guest rooms or fewer -- Two (2) parking spaces plus one additional space for each guest room.
 2. Motels, hotels, boarding houses, and inns with more than 4 guest rooms -- One (1) parking space for each guest room plus one (1) additional space for every three (3) employees.

- iii. Schools – Five (5) parking spaces for each classroom plus one (1) space for every four (4) employees.
 - iv. Theaters, places of worship, and other public assembly places – One (1) parking space for every four (4) seats or for every one hundred (100) square feet, or major fraction thereof of assemblage space.
 - v. Retail Stores – One (1) parking space for every two hundred (200) square feet of retail area, plus one for every two employees, unless public parking is provided.
 - vi. Restaurants, eating and drinking establishments – One (1) parking space for every four (4) seats, plus one (1) for every two (2) employees, unless public parking is provided.
 - vii. Professional Offices and Public Buildings – One (1) parking space for every two hundred (200) square feet of gross leasable area, exclusive of cellar and bulk storage areas, unless public parking is provided.
 - viii. Other Commercial Recreation Establishments (golf courses, etc.) – The number of spaces deemed appropriate for the anticipated usage by the Permitting Authority, given the expected number of employees and users and the nature of the establishment’s activities.
 - ix. Industrial – One (1) parking space for every 1.5 employees, based on the highest expected average employee occupancy, plus visitor and customer parking to meet the needs of specific operations, as accepted by the Permitting Authority.
 - x. Other commercial or institutional uses not listed – The permitting authority may determine the requisite parking based upon average number of employees, customers/participants, and overflow parking needs for events.
 - xi. Shared parking – The permitting authority may consider shared parking with adjacent uses that have opposite parking peak times. Such shared parking shall be in the form of a recorded agreement that may run with the land.
21. OFF-STREET LOADING: Adequate off-street loading areas shall be provided for appropriate land uses. Loading areas cannot be included as parking spaces when meeting parking requirements.

22. REFUSE DISPOSAL

- a. Disposal. The owner shall provide for the disposal of all solid, liquid, and hazardous wastes on a timely basis and in an environmentally safe manner, as determined by DEP rules and regulations.
- b. Industrial or Chemical Waste. The impact of particular industrial or chemical wastes or by-products upon the proposed sanitary facilities (in terms of volume, flammability, or toxicity) shall be considered, and the owner may be required to dispose of such wastes elsewhere, in conformance with all applicable State and Federal regulations. The owner shall specify the amount and exact nature of all industrial or chemical wastes to be generated by the proposed operation.
- c. Slash. Any slash shall be managed and disposed of as required by Maine DEP rules and regulations as may be amended.

23. SUBSURFACE SEWAGE DISPOSAL: A Licensed Plumbing Inspector (LPI) Permit may not be issued for a project with subsurface sewage disposal unless:

- a. There is an area of suitable soils, according to the Maine Subsurface Wastewater Disposal Rules, and of sufficient size to accommodate the proposed system.
- b. An acceptable plan to construct the absorption area is prepared in accordance with the Maine Subsurface Wastewater Disposal Rules.

A development may not be permitted that utilizes, for on-site subsurface sewage disposal purposes, any soil listed in the Soil Suitability Guide as having a very poor rating for the proposed use, unless the proposed sewage disposal system is approved under the Maine Subsurface Wastewater Disposal Rules.

24. SIGNAGE

- a. Conformance of Signs. A sign may be erected or altered in conformance with the provisions of this section.
- b. Signs Prohibited. A sign that causes traffic sight distance problems, or a health or welfare risk, or that results in a hazard, due to illumination, placement, display, or obstruction of existing signs, or interferes with plowing is prohibited.
- c. Temporary Signs. Temporary signs are permitted as follows:

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- i. Temporary Signs Giving Notice: Signs of a temporary nature, except signs posted by the Town, such as political posters, advertisements or notice of charitable functions, notices of meetings, other non-commercial signs of a similar nature, are permitted for a period not to exceed sixty (60) days, provided that the person(s) who posted the signs shall be responsible for their removal. Removal shall be within twenty-four (24) hours of the function, meeting, or election.
 - ii. Temporary Yard/Garage Sale Signs: Temporary yard/garage sale signs are permitted provided they do not exceed the size standards of Subsection (d) and provided they are removed within twenty-four (24) hours of the completion of the sale. Yard sales that extend for more than four (4) consecutive days are considered commercial use.
 - iii. Temporary Commercial Signs: Temporary commercial signs, such as real estate or contractor signs, may be displayed only on the property being serviced. Such signs must be removed within five (5) working days of completion of the service, i.e. sale date or completion of the project.
- d. Sign Requirements. All signs, other than temporary signs, shall meet the following requirements:
- i. Free-standing Sign: One (1) Free-standing sign per business is permitted. The sign may not exceed twenty-five (25) square feet.
 - ii. Projecting Sign on Building/Sign on Building: Either one (1) projecting sign or roof sign on building or one (1) wall sign per business is permitted. Projecting signs shall not exceed twenty-five (25) square feet in area. Wall or roof signs shall be limited to fifty (50) square feet in area. Signs may not extend beyond the height of the building.
 - iii. A sign may not project over a walkway or interfere in any way with the normal flow of foot or vehicular traffic.
 - iv. A sign may not contain, include, or be illuminated by flashing, blinking, intermittent, or moving lights, animated text, animated illustrations, or be moved by air.
 - v. A free-standing sign may not exceed ten (10) feet above ground in height including its post or support.

- vi. Signs may be illuminated only by downward, full-shielded, non-flashing lights so as to prevent beams of light from being directed at neighboring residential properties or any portion of the main traveled way of a roadway. Signs must be of such low intensity or brilliance as not to cause glare or impair the vision of the driver of any motor vehicle.
 - vii. Home Occupations may have one free-standing sign that may not exceed eight (8) square feet.
 - viii. Low Impact Businesses may have one free-standing sign that may not exceed twelve (12) square feet and one sign on building that may not exceed twelve (12) square feet.
 - ix. Signs relating to trespassing and hunting may not exceed two (2) square feet.
- e. Off-Premise Signs. An off-premise sign may not be erected or maintained except in conformity with 23 M.R.S.A., Sections 1901-1925, and The Maine Traveler Information Services Law. Off-premises official business directional signs may be located in the Town in such locations and in such a manner as allowed under 23 M.R.S.A., Sections 1901-1925 and under the rules and regulations of the Department of Transportation (DOT) of the State of Maine.
- Note: 23 M.R.S.A., Section 1913-A allows certain off-premise signs (e.g., agricultural products and farmer's markets) without license or permit as long as they conform to applicable State provisions.
- f. Exempt Signs. The following signs are exempt from the provisions of this section, except as otherwise provided for herein: Traffic control signs, signals, and/or other devices regulating or enhancing public safety, erected by a governmental body.

25. TOWERS: WIRELESS TELECOMMUNICATIONS FACILITIES: A tower may not be erected, altered, or maintained within the Town except in conformance with the provisions of this section. The Town may elect to require a surety prior to the construction of any tower. All towers within the Town shall meet the following requirements:
- a. New wireless telecommunications facilities shall be, to the extent possible, co-located on an existing wireless telecommunications facility or other similar existing structure.

A new facility may not be located in a viewshed, as designated in the comprehensive plan, in a Historic District, as recognized by the National Registry of Historic Places, or in the shoreland districts, as defined in the Shoreland Zoning Ordinance.

- b. **Siting on Municipal Property.** If an owner proposes to locate a new wireless telecommunications facility, or expand an existing facility on municipal property, the owner must show the following:
 - i. That the proposed location complies with applicable municipal policies and ordinances.
 - ii. That the proposed facility may not interfere with the intended purpose of the property.
 - iii. That the owner has adequate liability insurance and a lease agreement with the municipality that includes reasonable compensation for the use of the property and other provisions to safeguard the public rights and interests in the property.
- c. **Structural Standards.** A wireless telecommunications facility shall comply with the current Electronic Industries Association/ Telecommunications Industries Association (EIA/TIA) 222 Revision Standard entitled "Structural Standards for Steel Antenna Towers and Antenna Supporting Structures."
- d. **Height.** The maximum height of a wireless telecommunications facility shall be one hundred ninety-five (195) feet.
- e. **Setbacks.** A wireless telecommunications facility shall comply with the setback requirements, or be set back one hundred ten (110) percent of its height from all property lines, whichever is greater. The facility shall be designed, so that if it collapses, it may do so in a manner that would not harm abutting properties. No part of the tower structure, including anchors, guy wires, overhead lines, masts, etc., may be located in the required setback or in any required buffer area, both on the ground and in the airspace above the buffer area. A tower's setback may be reduced by the Planning Board to allow the integration of a tower into an existing or proposed structure such as a church steeple, power line support device, water tank, or other similar structure.
- f. **Lighting.** A wireless telecommunications facility shall be illuminated only as necessary to comply with Federal Aviation Administration (FAA) or other applicable State and Federal requirements. However, security lighting may be used as long as it is shielded to be down directional to retain the light within the boundaries of the site.

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- g. **Color and Materials.** A wireless telecommunications facility shall be constructed with materials and colors that match or blend with the surrounding natural or built environment, to the maximum extent practicable. Unless otherwise required, muted colors, earth tones, and subdued hues shall be used.
- h. **Landscaping.** A wireless telecommunications facility shall be screened with native plants from the view of abutting property owners to the maximum extent possible, and landscaped to conform with the surrounding area.
- i. **Fencing.** A telecommunications facility shall be fenced to discourage trespass on the facility. As deemed appropriate by the Planning Board, sufficient anti-climbing measures and other security measures preventing access to the site shall be incorporated to reduce the potential for trespass and injury.
- j. **Visual Impact.** A wireless telecommunications facility shall have no unreasonable adverse impact upon scenic resources, as identified either in the comprehensive plan, or by a State or Federal agency. There may be no signs, other than for public safety, installed on any tower. The following submissions are required as a basis for the Planning Board to determine visual impact:
 - i. A tree line elevation drawing depicting vegetation within two-hundred (200) feet of the proposed facility.
 - ii. Details regarding the type, number, height, and proximity of existing structures and features, and background features within the same line of sight as the proposed facility.
 - iii. Details or drawings indicating the extent to which the proposed wireless telecommunications facility would be visible from the viewpoint(s) of pedestrians and passing motorists.
 - iv. A description of the amount and location of proposed vegetative screening.
 - v. A description regarding reasonable alternatives, if any, that would allow the facility to function consistently with its purpose.
- k. **Historic and Archaeological Properties.** A wireless telecommunications facility may have no unreasonable adverse impact upon a historic district, site, or structure that may be listed on or eligible for listing on the National Register of Historic Places, as determined by the Maine Historic Preservation Commission.
- l. **Abandonment and Inactivity.** A wireless telecommunications facility that is not operated for a continuous period of twelve (12) months shall be considered abandoned.

After 12 months of inactivity, the CEO shall notify the property owner in writing by certified mail to remove the facility within ninety (90) days of receipt of the written notice. The owner of the facility shall have thirty (30) days from the receipt of the notice to demonstrate to the CEO that the facility has not been abandoned. If the property owner fails to show that the facility is in active operation, the owner shall have sixty (60) days to remove the facility. If the facility is not removed within this time period, the municipality may remove the facility at the owner's expense. The owner of the facility shall pay all site reclamation costs deemed necessary and reasonable to return the site to its pre-construction condition, including the removal of roads and reestablishment of vegetation.

- m. Facility Removal. The Planning Board shall require a surety bond for the removal of the facility. The owner of the facility may apply to the Planning Board for release of the surety when the facility and related equipment are removed to the satisfaction of the Planning Board.
- n. Exempt Towers. The following are exempt from the provisions of this section:
 - i. Emergency, temporary wireless telecommunications facilities.
 - ii. Amateur (ham) radio stations, except where such activities impact other telecommunications in the area.
 - iii. Parabolic antennas less than seven (7) feet in diameter, that are an accessory use of the property.
 - iv. Maintenance, repair, or reconstruction of a wireless telecommunications facility and related equipment, provided that there is no change in the height or any other dimension of the facility.
 - v. Residential Accessory antennas and satellite dishes.

26. TRANSIENT ACCOMMODATIONS: BED AND BREAKFAST: Bed and Breakfast accommodations shall be permitted in the private, year-round residence of the host family who lives on the premises, provided that:

- a. The maximum number of guest rooms is four (4).
- b. Breakfast is the only meal provided by the host family.
- c. Documentation is provided by the LPI that the existing (or proposed) septic system may comply with the requirements of the Maine Subsurface Wastewater Disposal Rules.
- d. The host family has received any and all state and/or federal permits as may be required for the use.

- e. The building is a year-round residence of the owner and operator who lives on the premises.
27. TRANSIENT ACCOMMODATIONS: BOARDING HOUSE, MOTEL, HOTEL AND INN: Boarding House, motel, hotel, and inn accommodations shall be permitted provided that the maximum number of guest rooms is fifteen (15).
28. VERNAL POOL: An activity in, on, or over these areas must avoid unreasonable impacts on the significant vernal pool habitat and obtain approval from the DEP through a Permit by Rule or individual NRPA approval
29. WATER USAGE AND WATER QUALITY: A proposed use or activity shall have sufficient water available for reasonably foreseeable needs of the development including, but not limited to, potable water and fire control water. The water supply may not alone, or in conjunction with other activities, adversely affect the quality or quantity of the groundwater available to abutting properties or to public water supply systems, if any.
- a. Safety. Owners whose project involves on-site sewage disposal systems with a capacity of two thousand (2,000) gallons per day or greater shall demonstrate that groundwater quality at the property line may comply, following development, with the standards for safe drinking water as established by the State.
 - b. Groundwater quantity. Owners whose project involves on-site water supply systems with a capacity of two thousand (2,000) gallons per day or greater shall demonstrate that, following development, the quantity of groundwater available for abutting properties or any existing public supply systems shall not be adversely affected.
 - c. Danger. A person may not locate, store, discharge, or permit the discharge of any treated, untreated, or inadequately treated liquid, gaseous, or solid materials of such nature, quantity, obnoxiousness, toxicity, or temperature that may cause a dangerous or hazardous condition. Such conditions include the run off, seepage, percolation, or wash of said materials into surface or groundwater so as to cause a dangerous or hazardous result. Such results include contamination and pollution. These conditions and their results shall not harm such waters or cause nuisances, such as objectionable shore deposits, floating or submerged debris, oil or scum, color, odor, taste, or unsightliness or be harmful to human, animal, plant, or aquatic life.
 - d. Storage. Storage facilities for fuel, chemicals, chemical, or industrial wastes, and biodegradable raw materials, shall meet the standards of the DEP and the State Fire Marshall's Office.

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- e. Watershed Requirements. If the project is located within the watershed of a “body of water most at risk from development” as identified by the DEP, the project shall comply with the standards of the DEP with respect to the export of total suspended solids and/or phosphorus.
- f. Groundwater. The permitting authority may require a hydrological study of groundwater impacts prepared by a Maine certified geologist.

SECTION VI: RESERVED FOR FUTURE USE

SECTION VII: RESERVED FOR FUTURE USE

SECTION VIII: RESERVED FOR FUTURE USE

SECTION IX: RESERVED FOR FUTURE USE

SECTION X: RESERVED FOR FUTURE USE

SECTION XI: ADMINISTRATION AND ENFORCEMENT

SECTION USERS GUIDE: This section contains provisions for the administration of this Ordinance including specific provisions for certificates of compliance, conditions of approval, and public hearings.

11.1. CREATION OF ADMINISTERING BODIES AND AGENTS

1. **CODE ENFORCEMENT OFFICER:** The CEO may approve or deny those applications on which he/she is employed to act as provided in this Ordinance. Approval may be granted only if the proposed use is in conformance with the provisions of this Ordinance. The CEO shall be appointed by the Selectmen.
2. **PLANNING BOARD:** The Planning Board has been established in accordance with Article VIII, Pt. 2, Section 1, of the Maine Constitution and 30-A M.R.S.A., Section 3001. The Planning Board shall be elected by the Town.

The Planning Board may approve, approve with conditions, or deny those applications on which it is empowered to act as stated in this Ordinance.

3. **BOARD OF APPEALS:** The Board of Appeals has been heretofore established in accordance with Article VIII, Pt 2, Section 1 of the Maine Constitution and with 30-A M.R.S.A., Section 4353. The Board of Appeals shall be appointed by the Selectmen.

11.2. APPROVAL REQUIREMENT

After the effective date of this Ordinance, a person may not engage in any activity requiring a permit under this Ordinance without first obtaining the approval of the Planning Board or CEO, as provided herein.

11.3. APPLICATION REQUIREMENT

Applications for approval shall be submitted in writing, on forms provided, to the CEO and/or to the Planning Board. The CEO and/or the Planning Board may require the submission of additional information deemed necessary to determine conformance with the provisions of this Ordinance.

11.4. CEO PERMIT PROCEDURE

A permit issued by the CEO shall be required before beginning or undertaking any activities as indicated pursuant to Section IV, 4.6 Schedule of Uses.

1. **APPLICATION:** All applications for a CEO Permit shall be submitted to the Town office, with appropriate fee, on forms provided.

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2. **SUBMISSIONS:** All applications for a CEO Permit shall be accompanied by a sketch plan showing dimensions or distances, and showing the following information. The CEO may require submissions to be prepared by a licensed architect or engineer for any non-residential buildings or multi-family buildings. The CEO may also require buffering plans to be prepared by a registered landscape architect. Surveys must be prepared by a licensed surveyor.
 - a. The shape and dimensions of the lot for which a permit is sought.
 - b. The location and size of all buildings, structures, and other significant features such as waterbodies and wetlands currently existing on the lot, as well as all waterbodies and wetlands within two-hundred fifty (250) feet of the property lines.
 - c. The location and building plans of new buildings, structures, or portions thereof to be constructed or any structure to be moved or relocated. Scaled drawings are to be submitted if deemed necessary by the CEO.
 - d. The existing and intended use of each building or structure.
 - e. The septic system design including a copy of form HHE-200 (Subsurface Wastewater Disposal System Plan.)
 - f. The location of existing and proposed signage.
 - g. Where applicable, the location of soil test pits, subsurface sewage disposal systems, parking lots and driveways, signs, buffers, and private wells.
 - h. Such other information as may be reasonably required by the CEO to provide for the administration and enforcement of this Ordinance.
3. **WAIVER:** The CEO may waive any of the submission requirements based upon a written request of the owner. A waiver of any submission requirement may be granted only if the CEO makes a finding that the information is not required to determine compliance with the standards of this Ordinance.
4. **TO WHOM ISSUED:** A permit may not be issued except to the owner of record or his authorized agent. Written proof of authorization shall be required.
5. **COMPLIANCE WITH LAND USE ORDINANCE:** All activities undertaken pursuant to a permit issued under this Section shall comply with all applicable standards set forth in Section V of this Ordinance.

6. **DEADLINE FOR DECISION:** The CEO shall, within thirty (30) days of receipt of an application: (a) issue the permit, if all proposed construction and uses meet the provisions of the Ordinance; (b) refer the application to the Planning Board for its review; or (c) deny the application. All decisions of the CEO shall be in writing.
7. **COPIES:** One (1) copy of the application, with the permit or other written decision of the CEO, shall be returned to the owner, and one (1) copy, with a copy of the permit or written decision, shall be retained by the Town as a permanent public record.
8. **POSTING:** The owner shall cause any permit issued to be conspicuously posted on the lot on which the activity may occur at a location clearly visible from the street.
9. **APPEALS:** Appeals from decisions of the CEO may be taken pursuant to the provisions of this Ordinance.

11.5. PLANNING BOARD PERMIT PROCEDURE

A permit issued by the Planning Board shall be required before beginning or undertaking any residential, commercial, institutional, or industrial activities as indicated pursuant to Section IV, 4.6 Schedule of Uses.

1. **APPLICATION:** Ten (10) copies of all applications, including written materials, maps, and drawings, for a Planning Board Permit shall be submitted, with applicable fee, in writing to the Town office on forms provided. In addition, the electronic submission of application materials is encouraged.
2. **SUBMISSION:** All applications for a Planning Board Permit shall be accompanied by a site plan, accurately drawn to 1" to 40' scale, and showing actual dimensions or distances, and also showing the following items. The Planning Board may require submissions to be prepared by a licensed architect or engineer for any non-residential buildings or multi-family buildings. The Planning Board may also require buffering plans to be prepared by a registered landscape architect. Surveys must be prepared by a licensed surveyor.
 - a. **Submission Requirements.**
 - i. Name of owner, and any agent or representative, with address, phone number, and email address for each;
 - ii. Address, tax map and lot number of the parcel or parcels on which the project is located;
 - iii. Boundaries of the tract of land;

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- iv. Location and size of existing and proposed buildings, structures, and other significant structures, and any structure to be moved or relocated, including use and proposed use thereof;
 - v. Names and addresses of all property owners within five hundred (500) feet of the property's boundaries;
 - vi. Location of buildings on abutting properties and within one hundred (100) feet of the property line of the proposed development;
 - vii. Location of existing public streets;
 - viii. Location of proposed access drives to the lot from public streets;
 - ix. Location and arrangement of proposed off-street parking and loading areas and their appurtenant drives and maneuvering areas;
 - x. Location of existing and proposed pedestrian walkways, if applicable;
 - xi. Location and size of existing and proposed signage, and all permanent outdoor features;
 - xii. Location of existing and proposed utilities and easements therefor, including sanitary sewage, water, and electricity;
 - xiii. Location of existing natural drainage ways, waterbodies, and wetlands, and proposed storm drainage facilities, including dimensions of culverts, pipes and similar facilities;
 - xiv. Location of waterbodies and wetlands within two hundred and fifty (250) feet of the property boundary including the location of the normal high-water line of any water body;
 - xv. Location, intensity, type, size, and direction of all outdoor lighting;
 - xvi. Location and proposed use for areas proposed for outdoor recreation, if applicable;
 - xvii. Location and type of existing and proposed fences, hedges, and trees of twelve (12) inch diameter at four and one half (4.5) feet above ground level;
 - xviii. Contour lines at appropriate intervals to show the effect on the land of existing and proposed grades for areas proposed to be excavated or filled if deemed necessary by the Planning Board;
 - xix. Setback dimensions from property lines and center of road;
 - xx. Proposed landscaping and buffering; and
 - xxi. The name, registration number, and seal of the licensed professional who prepared the plan, if applicable.
- b. The owner shall also provide:
- i. A general description of the project's proposed use or activity;
 - ii. Evidence of the owner's technical and financial capability to complete the project as proposed;
 - iii. Copy of property deed, option to purchase, or other documentation to demonstrate right, title, or interest in the property on the part of the owner;

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- iv. Copies of existing and proposed easements, covenants, or deed restrictions;
 - v. An estimate of daily and peak hour traffic to be generated by the project;
 - vi. Exterior elevation plans of all proposed buildings or building expansions proposed;
 - vii. The septic system design including a copy of form HHE-200 (Subsurface Wastewater Disposal System Plan);
 - viii. A list of all State and Federal permits required for the project and the current application, approved permits, or approval status of each;
 - ix. Photographs of the site; and
 - x. Other materials to ensure compliance with the ordinance.
- c. Unless directed otherwise for clarity by the Planning Board, all maps, plats, and plans shall be drawn to a scale of not more than 40 feet to the inch, or ¼” per foot for architectural plans.
3. **WAIVER OF SUBMISSION REQUIREMENTS:** The Planning Board may waive any of the submission requirements based upon a written request of the owner. A waiver of any submission requirement may be granted only if the Planning Board makes a finding that the information is not required to determine compliance with the standards of this Ordinance.
4. **WAIVER OF REQUIREMENTS:**
- a. The Planning Board may waive requirements for lot coverage only upon making a finding that:
 - i. The greater lot coverage does not have an adverse impact on neighboring properties as to aesthetics, stormwater control, or groundwater quality;
 - ii. The lot coverage does not encroach upon setback requirements; and
 - iii. The lot coverage increase does not conflict with any other parts of the Ordinance or the most recent comprehensive plan.
 - b. The Planning Board may waive requirements for noise standards for Industrial uses (only) upon making a finding that:
 - i. The noise level does not exceed 85 dBA measured at the property line;
 - ii. The increased noise level is not sustained or rhythmic in nature;
 - iii. The increased noise level does not occur before 6 AM or after 6 PM; and
 - iv. The increased noise level does not conflict with any other parts of the Ordinance or the most recent comprehensive plan.
5. **TO WHOM ISSUED:** A permit may not be issued except to the owner of record or his authorized agent. Written proof of authorization shall be required.

6. **COMPLIANCE WITH LAND USE ORDINANCE:** All activities undertaken pursuant to a permit issued under this Section shall comply with all applicable standards set forth in Section V of this Ordinance.
7. **OFFICIAL DECISIONS AND INFORMAL DISCUSSIONS:** The Planning Board may not render an official decision or an advisory opinion in the absence of a formal application for a permit from a prospective applicant. At the Planning Board's discretion, however, prior to the submission of a formal application for a permit, a prospective applicant or authorized agent may appear at a regular Planning Board meeting to discuss informally the proposed development.
 - a. At such a meeting, the prospective applicant shall present a sketch plan and general description of the proposed development, showing what is being proposed.
 - b. Binding commitments may not be made between the prospective applicant and the Planning Board at this stage. The purpose of the pre-application meeting shall be only to discuss what is proposed, what ordinances apply, and what the applicable ordinances allow without reference to the specific project. No vested interests shall attach or accrue to the prospective applicant as a result of any pre-application discussion with the Planning Board.
8. **SITE VISIT:** The Planning Board may schedule a fact-finding site visit before reviewing the application. The owner or owner's agent shall be informed and invited to be present.
9. **PUBLIC HEARING:** Within a maximum of thirty-five (35) days after an application for a Land Use Permit has been deemed complete by the Planning Board, and before taking action thereon, the Planning Board may hold a public hearing on the application. Notice of this hearing shall be published in a local newspaper at least ten (10) days in advance of this hearing. A notice of this hearing shall be sent by certified mail to each landowner abutting the parcel involved. Landowners shall be considered to be those on whom property taxes are assessed. Failure of any landowner to receive a notice of public hearing shall not necessitate another hearing nor invalidate any action of the Planning Board. Responsibility for such notification shall be assumed by the CEO. The owner shall bear all associated costs of advertisements and notifications. The purpose of the public hearing shall be to receive input from the general public relative to the applicable sections of the review standards.
10. **PLANNING BOARD REVIEW AND ACTION:** Within thirty-five (35) days after the public hearing, if held, in which the permit application is reviewed, or, within forty-five (45) days after the application has been deemed complete by the Planning Board, the Planning Board shall approve, approve with modifications, or disapprove the application.

The Board shall inform the owner of its decision in writing, and in cases of disapproval or approval with modifications, reasons for such action shall be stated. A copy of the Board's decision shall be retained by the Town as a permanent public record. A Land Use Permit shall not be issued unless approval of the application has been granted.

11. **COPIES:** One (1) copy of the application, with the permit or other written decision of the Planning Board, shall be returned to the owner, and one (1) copy of the application, with a copy of the permit or written decision, shall be retained by the Town as a permanent public record.
12. **POSTING:** The owner shall cause any permit issued to be posted on the lot on which the activity may occur at a location clearly visible from the street.
13. **APPEALS:** Appeals from decisions of the Planning Board may be made pursuant to the provisions of this Ordinance.

11.6. OTHER REQUIREMENTS BEFORE APPROVAL

1. **OTHER PERMITS:** Applications for approval may not be considered complete for processing until all other required municipal, State, and Federal permits have been secured and evidence that they have been secured has been provided to the permitting authority unless State or Federal regulations require local approval first.
2. **TAXES:** A permit may not be considered until all taxes due to the Town on the owner's subject lot/premises have been paid in full.

11.7. POSITIVE FINDINGS REQUIREMENT

Approval shall be granted by the CEO or Planning Board only upon a positive finding by the CEO or Planning Board that the proposed use:

- a. **Pollution.** The proposed project may not result in undue water or air pollution. In making this determination, it shall at least consider:
 - i. The elevation of the land above sea level and its relation to the flood plains;
 - ii. The nature of soils and subsoils and their ability to adequately support waste disposal;
 - iii. The slope of the land and its effect on effluents;
 - iv. The availability of streams for disposal of effluents; and
 - v. The applicable state and local health and water resource rules and regulations.
- b. **Sufficient water.** The proposed project has sufficient water available for the reasonably foreseeable needs of the subdivision;

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- c. Municipal water supply. The proposed project may not cause an unreasonable burden on an existing water supply, if one is to be used;
- d. Erosion. The proposed project may not cause unreasonable soil erosion or a reduction in the land's capacity to hold water so that a dangerous or unhealthy condition results;
- e. Traffic. The proposed project may not cause unreasonable highway or public road congestion or unsafe conditions with respect to the use of the highways or public roads existing or proposed and, if the proposed project requires driveways or entrances onto a state or state aid highway located outside the urban compact area of an urban compact municipality as defined by Title 23, section 754, the Department of Transportation has provided documentation indicating that the driveways or entrances conform to Title 23, section 704 and any rules adopted under that section;
- f. Sewage disposal. The proposed project may provide for adequate sewage waste disposal and may not cause an unreasonable burden on municipal services if they are utilized;
- g. Municipal solid waste disposal. The proposed project may not cause an unreasonable burden on the municipality's ability to dispose of solid waste, if municipal services are to be utilized;
- h. Aesthetic, historic, cultural, and natural values. The proposed project may not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, significant wildlife habitat identified by the Department of Inland Fisheries and Wildlife or the municipality, or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline;
- i. Conformity with local ordinances and plans. The proposed project conforms with this ordinance, and the town's comprehensive plan.
- j. Financial and technical capacity. The applicant has adequate financial and technical capacity to meet the standards of this section;
- k. Surface waters; outstanding river segments. Whenever situated entirely or partially within the watershed of any pond or lake or within 250 feet of any wetland, great pond, or river as defined in Title 38, chapter 3, subchapter I, article 2-B, the proposed project may not adversely affect the quality of that body of water or unreasonably affect the shoreline of that body of water;
- l. Ground water. The proposed project may not, alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water;
- m. Flood areas. Based on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps, and information presented by the applicant whether the proposed development is in a flood-prone area. If the proposed development, or any part of it, is in such an area, the applicant shall determine the 100-year flood elevation and flood hazard boundaries within the lot. The proposed project must include a condition of plan approval requiring that principal structures on the lot may be constructed with their lowest floor, including the basement, at least one foot above the 100-year flood elevation;

- n. Freshwater wetlands. All freshwater wetlands within the proposed development have been identified on any maps submitted as part of the application, regardless of the size of these wetlands. Any mapping of freshwater wetlands may be done with the help of the local soil and water conservation district;
- o. Farmland. All farmland within the proposed lot has been identified on maps submitted as part of the application. Any mapping of farmland may be done with the help of the local soil and water conservation district;
- p. River, stream or brook. Any river, stream, or brook within or abutting the proposed development has been identified on any maps submitted as part of the application. For purposes of this section, "river, stream or brook" has the same meaning as in Title 38, MRSA section 480-B, subsection 9;
- q. Storm water. The proposed development may provide for adequate storm water management;
- r. Lake phosphorus concentration. The long-term cumulative effects of the proposed development may not unreasonably increase a great pond's phosphorus concentration during the construction phase and life of the proposed subdivision;
- s. Impact on adjoining municipality. For any proposed plan that crosses municipal boundaries, the proposed plan may not cause unreasonable traffic congestion or unsafe conditions with respect to the use of existing public ways in an adjoining municipality in which part of the subdivision is located.

11.8. VIOLATION

Violation of the terms and conditions of this Ordinance shall be corrected within thirty (30) days of receipt of Notice of Violation, unless an extension of time is granted by the Planning Board or CEO. A violation shall void all permits.

11.9. COMMENCEMENT AND COMPLETION OF WORK

Construction and alteration activities for commercial, industrial, and institutional uses for which approval has been granted shall substantially commence within twelve (12) months of the date of permit issuance and shall be substantially completed within twenty-four (24) months of the date of permit issuance. These time requirements may be extended for good cause such as conditions beyond the control of the permit holder, upon application by the permit holder to the Permitting Authority.

11.10. CERTIFICATE OF OCCUPANCY REQUIREMENT

- 1. After a building, structure, or part thereof has been erected, enlarged, or moved, or undergone alteration, pursuant to approval under this Ordinance, a Certificate of Occupancy shall be obtained from the CEO for the proposed use before the same may be occupied or used.

2. For projects involving the construction of more than ten thousand (10,000) square feet of gross floor area or twenty thousand (20,000) square feet of impervious surface, the applicant shall provide the CEO with a set of construction plans showing the building(s) and site improvements as actually constructed on the site. These “as-built” plans shall be submitted by a licensed professional prior to issuance of a Certificate of Occupancy.
3. Before the issuance of the Certificate of Occupancy, the CEO shall determine that the proposed use of the building, facility, and/or land conforms to the requirements of all applicable Town ordinances, State and Federal laws and regulations, and any conditions of approval imposed on the project. Occupancy without the required certificate shall be deemed to be a violation of this Ordinance and subject to enforcement action as provided in Section 11.11.
4. A copy of each issued Certificate of Occupancy and the as-built plan if applicable, shall be retained by the Town as a permanent public record.

11.11. ENFORCEMENT

1. **NUISANCES:** A violation of this Ordinance shall be deemed to be a nuisance.
2. **CODE ENFORCEMENT OFFICER:** The CEO shall enforce the provisions of this Ordinance. If the CEO finds that any provision of this Ordinance is being violated, he/she shall notify in writing by certified mail the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct the violation, including discontinuance of illegal use of land, buildings, structures, and abatement of nuisance conditions. A copy of such notices shall be retained by the Town as a permanent public record.
3. **LEGAL ACTIONS:** When the above does not result in the correction or abatement of the violation or nuisance condition, the Selectmen, upon notice from the CEO, may institute any and all actions and proceedings, either legal or equitable, including seeking injunctions and the imposition of fines, that may be appropriate or necessary to enforce the provisions of the Ordinance.
4. **FINES:** Any person who continues to violate provisions of this Ordinance after receiving notice of such violation may be liable for civil penalty up to the maximum of \$2,500.00 for each violation. Each day the violation continues shall constitute a separate violation as referenced in 30-A M.R.S.A., Section 4452. The violator liable for each offense may be ordered to correct or abate a violation, and may be liable for the Town’s attorney’s fees, witness fees, and costs.

11.12. APPEALS

See the Board of Appeals Ordinance, enacted on April 14, 2004, and as amended.

11.13. FEE SCHEDULE

Application fees for permits shall be paid to the Town in accordance with the fee schedule as established by the Selectmen. Fees shall be for the cost of processing the permits and are not refundable regardless of the final decision to issue or deny a permit. Advertising costs, technical or legal assistance, and associated costs deemed necessary by the Town for the review of applications shall be the responsibility of the owner.

SECTION XII: DEFINITIONS

12.1. CONSTRUCTION OF LANGUAGE

In this Ordinance, certain terms or words should be interpreted as follows:

- The word "person" includes an individual, corporation, governmental agency, municipality, trust, estate, partnership, firm, association, company, organization, two or more individuals having a joint or common interest, or other legal entity.
- The present tense includes the future tense, the singular number includes the plural and plural includes the singular.
- The word "shall" is mandatory.
- The word "may" is permitted, discretionary, or optional.
- The words "used" or "occupied" include the words "intended," "designed," or "arranged to be used or occupied."
- The word "dwelling" includes the word "residence."
- The masculine gender shall include the feminine and neuter genders.
- The words "Town" and "municipality" shall mean the Town of Bremen.
- The word "Selectmen" shall mean the Town's Board of Selectmen.
- In the case of any difference or meaning or implication between the text of this Ordinance and any map or illustration, the text shall control.

Terms not defined shall have the customary dictionary meaning.

12.2. DEFINITIONS

For the purposes of interpreting this Ordinance, the following terms, phrases, words, and their derivations shall have the meaning given herein.

ABUTTING: Having a common border with, or being separated from such common border by an alley, easement, or water body.

ABUTTING PROPERTY OR ABUTTER: Any lot that is physically contiguous with the subject lot even if only at a point and any lot that is located directly across a street, right-of-way, or water body from the subject lot such that the extension of the side lot lines of the subject lot would touch or enclose the abutting property.

ACCESS: A means of approach or entry to or exit from property for vehicles.

ACCESS ENTRANCE: An access serving one of the following land uses: residential uses or developments serving three or more dwelling units, or, industrial, commercial, and institutional uses.

ACCESSORY STRUCTURE: See STRUCTURAL TERMS.

ACOUSTIC: The use of musical instruments or vocals not having electrical amplification

ACRE: A measure of land containing forty-three thousand, five hundred and sixty (43,560) square feet.

AGGRIEVED PERSON: A person whose interests may be damaged or adversely affected by a decision, an action, or the failure to act by the Planning Board or Code Enforcement Officer.

AGRICULTURAL ACTIVITY: Land clearing, tilling, fertilizing, including spreading and disposal of animal manure, liming, planting, pesticide application, harvesting of cultivated crops, management of livestock, and other similar or related activities, but not the construction, creation, or maintenance of land management roads.

ALTERATION: As applied to a building or structure, a change or rearrangement in the structural parts or in the means of egress; or an enlargement, whether by extending on a side or by increasing height; or in moving from one location or position to another. This activity excludes normal maintenance or normal repairs of a building or structure.

ANCHORAGE AREA: An area of the harbor set aside for the mooring of vessels.

APARTMENT BUILDING: Three or more dwelling units located in a single structure, with each arranged, intended, or designed to be occupied by a family living independently of the others. See also, STRUCTURAL TERMS.

APPEAL: A means for obtaining review of a decision, determination, order or failure to act pursuant to the terms of this Ordinance as expressly authorized by this Ordinance.

AQUACULTURE: The growing or propagation of harvestable freshwater, estuarine, or marine plant, or, animal species.

ARCHAEOLOGICAL/HISTORIC SITE/STRUCTURE: A site or structure that is:

- (1) Listed individually in the National Register of Historic Places or preliminarily determined by the US Secretary of the Interior as meeting the requirements for individual listing on the National Register.
- (2) Certified or preliminarily determined by the US Secretary of the Interior as contributing to the historical significance of a registered historic district preliminarily determined by the US Secretary of the Interior to qualify as a registered historic district.
- (3) Individually listed on a State inventory of historic places in States with historic preservation programs that have been approved by the US Secretary of the Interior.

- (4) Individually listed on an inventory of historic places in communities with historic preservation programs that have been certified either: (a) by an approved State program as determined by the US Secretary of the Interior; or (b) directly by the US Secretary of the Interior in States without approved programs.

ARTERIAL: A controlled access road or a street or road with traffic signals at important intersections and/or stop signs on side roads or a road that is functionally classified by the Maine DOT as an arterial.

ATTIC: That part of a building that is immediately below, and wholly or partly within, the roof framing.

BASAL AREA: The area of cross-section of a tree stem four and one half (4.5) feet above ground level and inclusive of bark.

BASEMENT: The substructure of a building that is partially or wholly below ground level that may or may not be used for living spaces.

BED AND BREAKFAST: Accommodations provided for compensation as a business in the private year-round residence of the host family, consisting of a maximum of four (4) guest rooms. Breakfast is the only meal, if any, to be provided.

BERTH: The place where a vessel lies when at a wharf or pier.

BOAT LAUNCHING FACILITY: A facility designed primarily for the launching and landing of watercraft and which may include an access ramp, docking area, and parking spaces for vehicles and trailers.

BUFFERS: Areas of land, together with specified types and amounts of planting thereon and any structures that may be required between land uses to eliminate or minimize conflicts between them.

BUILDING: A structure having a roof supported by columns or walls. See also, STRUCTURAL TERMS.

BUILDING FOOTPRINT: The area covered by a building measured from the exterior surface of the exterior walls at grade level exclusive of cantilevered portions of the building. Where the building is elevated above grade level on posts or similar devices, the building footprint is the area the building would cover if it were located at ground level.

BUILDING FRONT LINE: Line parallel to the front lot line transecting that point in the building face that is closest to the front lot line. This face includes porches whether enclosed or unenclosed but does not include steps.

BUILDING HEIGHT: The vertical distance between the mean finished grade of the structure's foundation and the highest point of the roof excluding chimneys, steeples, antennas, and similar appurtenances.

BUILDING, TEMPORARY - A building that is used for up to nine (9) contiguous months. Building must be taken down or moved after nine (9) months. The building may not be plumbed for plumbing except for irrigation.

BUREAU OF FORESTRY: A Bureau of the Maine State Department of Agriculture, Conservation and Forestry.

CAMPGROUND: Any premises established for overnight use for the purpose of temporary camping or living quarters. It includes only tenting sites and sites for recreational vehicles. It does not include a noncommercial private campsite.

CAMPSITE: A site for tent camping or a recreational vehicle site in a campground.

CANOPY: The more or less continuous cover formed by tree crowns in a wooded area.

CERTIFICATE OF OCCUPANCY: Official certification that a premises conforms to provisions of this Ordinance, the Electrical Code, Subsurface Waste Disposal regulations, Plumbing Code, Americans with Disabilities Act (ADA), Life Safety Code 101, and National Fire Protection Association (NFPA) 31, and may be used or occupied. Such a certificate is granted for new construction or for alteration or additions to existing structures. Unless such a certificate is issued, a structure cannot be lawfully occupied.

CHANNEL: An area of waterway kept clear of moorings or other obstructions to allow the free passage of vessels.

CLAM HARVEST LICENSE: A Clam Harvest License issued by the Town.

CLAMS: Softshell clams, *Mya arenaria*.

COASTAL BLUFF: A steep shoreline slope formed in sediment (loose material such as clay, silt, sand, and gravel) that has three feet or more vertical elevation just above the high-tide line.

COASTAL WETLAND: See WETLAND.

CODE ENFORCEMENT OFFICER (CEO): A person certified under this section and employed by the town of Bremen to enforce all applicable laws and ordinances in the following areas:

- A. Shoreland zoning under MRSA Title 38, chapter 3, subchapter 1, article 2-B;
- B. Comprehensive planning and land use under Part 2, Subpart 6-A;
- C. Internal plumbing under MRSA chapter 185, subchapter 3;
- D. Subsurface wastewater disposal under MRSA chapter 185, subchapter 3; and
- E. Building standards under MRSA chapter 141; chapter 185, subchapter 1; Title 5, sections 4582-B, 4582-C and 4594-F; beginning June 1, 2010, Title 10, chapter 1103; and Title 25, chapter 313, respectively.

COMMERCIAL VESSEL: A vessel that generates income and is registered as commercial.

CONGESTED AREA, HARBOR: Those areas that are determined by the Harbormaster and confirmed and designated by the Harbor Committee to be approaching or to have reached saturation of available mooring space.

COLLECTOR STREET: A street that collects traffic from local roads and connects with arterials or a street or road functionally classified as a collector by the Maine DOT.

COMMERCIAL USE: The use of lands, buildings, or structures, other than a HOME OCCUPATION or LOW IMPACT BUSINESS, the intent and result of which is the production of income from the buying and selling of goods and/or services, exclusive of rental of residential buildings and/or dwelling units unless there are three or more dwelling units on a lot.

CRIBBING: An open ballasted framework of wood, metal, or concrete in the water to support a structure and permanently affixed to the bottom.

CROSS-SECTIONAL AREA: The cross-sectional area of a stream or tributary stream channel is determined by multiplying the stream or tributary stream channel width by the average stream or tributary stream channel depth. The stream or tributary stream channel width is the straight-line distance from the normal high-water line on one side of the channel to the normal high-water line on the opposite side of the channel. The average stream or tributary stream channel depth is the average of the vertical distances from a straight line between the normal high-water lines of the stream or tributary stream channel to the bottom of the channel.

CURB CUT: The opening along the curb line or street right-of-way line at the point where vehicles may enter or leave the street.

DAY CARE CENTER: A building or place in which a person or combination of persons maintains or otherwise carries out a regular program, as may be required for licensure under state and/or federal regulations, for consideration, for any part of a day, providing care and protection for three (3) or more persons unrelated to the operator, but shall not include nursery schools, summer camps, or formal public or private schools.

DbA - Sound levels measured in decibels on the A-weighted scale that adjusts the frequencies of unweighted decibel levels to represent the relative loudness of sounds in air as perceived by the human ear.

DBH: The diameter of a standing tree measured four and one half (4.5) feet from ground level. See also, BASAL AREA.

DMR: State of Maine Department of Marine Resources.

DEVELOPMENT: A change in land use involving alteration of the land, water, or vegetation, or the addition or alteration of structures or other construction not naturally occurring.

DEVELOPER: The legal or beneficial owner(s) of a lot or parcel of any land proposed for development, including the holder of an option or contract to purchase.

DIMENSIONAL REQUIREMENTS: Numerical standards relating to spatial relationships including but not limited to: setback, lot area, shore frontage, and height.

DISABILITY: As defined in the Americans with Disabilities Act (ADA).

DISRUPTION OF SHORELINE INTEGRITY: The alteration of the physical shape, properties, or condition of a shoreline at any location. A shoreline where shoreline integrity has been disrupted is recognized by compacted, scarified and/or rutted soil, an abnormal channel or shoreline cross-section, and in the case of flowing waters, a profile and character altered from natural conditions.

DOCK: See PIER.

DRAINAGE: The removal of surface or groundwater from land by drains, grading, or other means. Drainage includes the control of runoff to minimize erosion and sedimentation during and after development, and includes the means necessary for water-supply preservation or alleviation of flooding.

DRIVEWAY: A vehicular access-way serving up to two single-family dwellings or one two-family dwelling.

DWELLING: A structure containing one or more dwelling units. See STRUCTURAL TERMS.

EARTH: Soil, loam, peat, clay, sand, gravel, rock, and stone or other mineral or organic deposits, other than vegetation, in, on, or from the land, wetlands, or water bodies.

EARTH MOVING ACTIVITY: Activity involving the moving of earth. Moving means the removal and movement of earth from one place to another; it includes ancillary activities such as: lagooning, dredging, excavation, filling, and grading.

LARGE or LARGE SCALE EARTH MOVING: Large and large scale means earth extraction, movement, and uses involving more than five thousand (5,000) cubic yards of earth and involving a total surface alteration or disturbance of more than five (5) acres. When applied to ledge mining, large scale means more than one thousand (1,000) cubic yards of ledge.

SMALL or SMALL SCALE EARTH MOVING: Small and small scale means earth extraction, movement, and uses involving less than five thousand (5,000) cubic yards of earth and involving a total surface alteration or disturbance of less than five (5) acres. When applied to ledge mining, small scale means one thousand (1,000) cubic yards of ledge.

EARTH PROCESSING: Combining earth with substances designed to make an aggregate such as asphalt or concrete.

EASEMENT: Legally binding authorization by a property owner for the use by another and for a specified purpose of any designated part of his property.

EMERGENCY OPERATIONS: Operations conducted for the public health, safety, or general welfare, such as protection of resources from immediate destruction or loss, law enforcement, and operations to rescue human beings, property, and livestock from fire or other threats of destruction or injury.

ENLARGEMENT OR EXPANSION OF A STRUCTURE: An increase of the building footprint, an increase in cubic volume, and/or an increase in the height of the structure beyond its present highest point. Alterations of existing buildings that are required in order to meet the requirements of the Americans with Disabilities Act (ADA) and/or the State Fire Code are not considered to be enlargements or expansions of a structure and are not required to meet otherwise applicable setback requirements, provided the alterations are the minimum necessary to satisfy the ADA and/or State Fire Code.

ENLARGEMENT OR EXPANSION OF USE: Any intensification of use in time, volume, or function, whether or not resulting from an increase in the footprint, height, floor area, land area, or cubic volume occupied by a particular use. Increases that are

required in order to meet the requirements of the ADA and/or the State Fire Code are not considered to be enlargements or expansions of use.

ESSENTIAL SERVICES: Gas, electrical, or communication facilities; steam, fuel, electric power, or water transmission or distribution lines, towers and related equipment; telephone cables or lines, poles, and related equipment; gas, oil, water, slurry or other similar pipelines; municipal sewage lines, collection or supply systems; and associated storage tanks. Such systems may include towers, poles, wires, mains, drains, pipes, conduits, cables, fire alarms and police call boxes, traffic signals, hydrants, and similar accessories, but they shall not include service drops or buildings that are necessary for the furnishing of such services.

EXTENSION OR TO EXTEND: An increase in the amount of existing floor area used for an existing use within an existing building. To extend is to make an extension.

EXTRACTION: See EARTH MOVING ACTIVITY.

FAMILY: One or more persons occupying a building and living as a simple housekeeping unit.

FIREBREAK: An area containing shade trees or ornamental shrubs that do not provide a means of transmitting fire from native vegetation to buildings

FISHERIES, SIGNIFICANT FISHERIES: Areas identified by a governmental agency such as the Maine Department of Inland Fisheries and Wildlife, Atlantic Salmon Authority, or Maine Department of Marine Resources as having significant value as fisheries and any areas so identified in the municipality's comprehensive plan.

FLOAT: A floating structure, other than a vessel, normally used as a point of transfer for passengers, fishing gear, or other goods and not designed for self-propelled navigation.

FLOODWAY: The channel of a river or other watercourse and adjacent land areas that must be reserved in order to discharge the 100-year flood without cumulatively increasing the water surface elevation by more than one foot in height.

FLOOR AREA: A structure's area measured from its foundation's external dimensions or, if it has no foundation, its external dimensions and the area determined in accord with square footage permitting fee.

FOREST MANAGEMENT ACTIVITIES: Timber cruising and other forest resources evaluation activities, management planning activities, insect and disease control, timber stand improvement, pruning, timber harvesting, and other forest harvesting, regeneration of forest stands, and other similar associated activities, but not the construction or creation of roads.

FORESTED WETLAND: See WETLAND.

FOREST STAND: A contiguous group of trees sufficiently uniform in age, class distribution, composition, and structure, and growing on a site of sufficiently uniform quality, to be a distinguishable unit.

FOUNDATION: The supporting substructure of a building or other structure, excluding wooden sills and post supports, but including basements, slabs, frostwalls, or other base consisting of concrete, block, brick, stone, or similar material.

FRATERNAL ORDER OR SOCIAL CLUBS: Any voluntary association of persons organized for fraternal, social, religious, benevolent, recreational, literary, patriotic, scientific, or political purposes whose facilities are open to members but not the general public and which is principally engaged in activities that are not customarily carried on for pecuniary gain.

FRESHWATER WETLAND: See WETLAND.

FRONTAGE, SHORE: See SHORE FRONTAGE.

FRONTAGE, STREET: The horizontal distance between the intersections of the side lot lines with the front lot lines.

GARAGE, RESIDENTIAL: An accessory building for parking or temporary storage of motor vehicles of residential occupants of the premises, or a part of the residence usually occupying the ground floor area of principal one-or-two family dwellings.

GREAT POND: Any inland body of water that in a natural state has a surface area in excess of ten acres, and any inland body of water artificially formed or increased that has a surface area in excess of thirty (30) acres, except for the purposes of this Ordinance, where the artificially formed or increased inland body of water is completely surrounded by land held by a single owner,

GREAT POND CLASSIFIED GPA: Any great pond classified GPA, pursuant to 38 M.R.S.A., Article 4-A, Section 465-A. This classification includes some, but not all, impoundments of rivers that are defined as great ponds.

GROUND COVER: Small plants, fallen leaves, needles, and twigs, and the partially decayed organic matter of the forest floor.

GROUNDWATER: Water found beneath the surface of the ground. For purposes of aquifer protection, this term refers to the subsurface water present in aquifers and recharge areas.

GROUNDWATER PROTECTION OVERLAY ZONE: Any mapped area designated as a zone for the protection of the groundwater resources.

GROWTH PERMIT: A permit to allow the establishment of a principal year-round residence in a new or existing dwelling unit.

GUEST ROOM: A room in a hotel, motel, tourist home, or bed and breakfast residence offered to the public for compensation in which no provision is made for cooking.

HARBORMASTER: That person appointed by the Selectmen pursuant to 38 M.R.S.A., Section 1, as may be amended, and the most recent Bremen Harbor Ordinance.

HARVEST AREA, TIMBER: The area where timber harvesting and related activities, including the cutting of trees, skidding, yarding, and associated road construction take place. The area affected by a harvest encompasses the area within the outer boundaries of these activities, excepting unharvested areas greater than ten (10) acres within the area affected by a harvest.

HARVEST, CLAMS: Harvest means to take, gather, remove, hold, pick, transport, or in any other or similar way or by any other or similar means harvest clams at, on, or in the clam producing areas of the Town, whether or not for the purpose of sale. Harvest also means to be in, on, or about any clam producing area of the Town while in possession of the tools or implements ordinarily or traditionally associated with the harvesting of clams.

HISTORIC OR ARCHAEOLOGICAL RESOURCES: Areas identified by a government agency, such as the Maine Historic Preservation Commission, as having significant value as an historic or archaeological resource and any areas identified in the comprehensive plan.

HOME OCCUPATION: A business, profession, occupation, or trade conducted for financial gain and located entirely on a residential lot in which the activity is accessory, incidental, and secondary to the use for dwelling purposes, and does not change the residential character or appearance of such building or lot.

IMPERVIOUS SURFACE: The area covered by buildings and associated constructed facilities, areas that have been or may be covered by a low-permeability material, such as asphalt or concrete, and areas such as gravel roads and unpaved parking areas, that have been or may be compacted through design or use to reduce their permeability. Common impervious surfaces include, but are not limited to, clay, asphalt, concrete, or stone materials, as well as roof tops, or other surfaces that similarly impede the natural infiltration of storm water.

INDIVIDUAL PRIVATE CAMPSITE: An area of land that is not associated with a campground, but that is developed for repeated camping by only one group not to exceed ten (10) individuals and that involves site improvements that may include but not be limited to a gravel pad, parking area, fire place, or tent platform.

INDUSTRIAL: Use of premises for assembling, fabricating, finishing, manufacturing, packaging, or processing. These include but are not limited to assembly plants, laboratories, power plants, pumping stations, and repair shops.

INSTITUTIONAL: A non-profit or quasi-public use, or institution such as a church, library, public or private school, hospital, or municipally owned or operated building, or structure or land used for public purposes.

JUNKYARDS:

JUNKYARD: A yard, field or other area used as a place of storage for discarded worn-out, or junked plumbing, heating supplies, household appliances, furniture, scrap and junked lumber, old or scrap copper, brass, rope, rags, batteries, paper trash, rubber debris, waste and scrap iron, steel, and other ferrous and non-ferrous material, including garbage dumps, waste dumps, and sanitary landfills.

MOTOR VEHICLE (AUTOMOBILE) GRAVEYARDS: A yard, field or other area used as a place of storage for three (3) or more unserviceable, discarded, worn-out, or junked motor vehicles.

KENNEL, BREEDING: A place in or at which any number of dogs or cats is kept for the purpose of sale or in connection with boarding, care, training, or breeding, for which a fee is charged.

LAND USE PERMIT: A permit for proposed land use activity as defined in this Ordinance and issued by the Permitting Authority in accordance with the provisions of this Ordinance.

LAND MANAGEMENT ROAD, TIMBER HARVESTING: A route or track consisting of a bed of exposed mineral soil, gravel, or other surfacing materials constructed for, or created by, the passage of motorized vehicles and used primarily for timber harvesting and related activities, including associated log yards, but not including skid trails or skid roads.

LAUNCHING RAMP: Surface used for boat access to and from water.

LICENSED FORESTER: A forester licensed under Title 32 M.R.S.A., Chapter 76.

LICENSEE, CLAM HARVESTER: A holder of any Clam Harvest License issued under the terms of the Clam Conservation Ordinance.

LIGHT MANUFACTURING: The fabrication or processing of materials into a finished product. Fabrication relates to the stamping, cutting, or otherwise shaping of the processed materials into useful objects/products. Light manufacturing does not include the refining or other initial processing of basic raw materials such as metal ore, lumber, or rubber.

LOADING SPACE: An off-street space or berth on the same lot with a building or contiguous to a group of buildings for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials, and that abuts upon a street, alley, or other appropriate means of access.

LOCAL STREET: A public street or road that is not identified by the state as an arterial or collector. A local street includes a proposed street shown on an approved and recorded subdivision plan.

LOT: A parcel or plot of land in private or public ownership, described on a deed, plat, or similar legal document.

LOT AREA: The area of land enclosed within the boundary lines of a lot, minus land below the normal high-water line of a water body or upland edge of a wetland and areas beneath roads serving more than two lots.

LOT, CORNER: A lot abutting two or more streets at their intersection. Corner lots have two or more front setbacks, and two or more side setbacks.

LOT DEPTH: The mean horizontal distance between the front and rear lot lines measured within the lot boundaries.

LOT FRONTAGE: Lot width measured at the street lot line. When a lot has more than one street lot line, lot width shall be measured, and the minimum road frontage required by the Ordinance shall be provided, on at least one roadway.

LOT LINE: A line bounding a lot that divides one lot from another, or from a street or any other public or private space.

LOT OF RECORD: Any validly recorded lot that at the time of its recording complied with all applicable laws, ordinances, and regulations.

LOT STANDARDS: The combination of controls that establishes the maximum size of a building and its location. Components of lot standards, also known as space and bulk regulations in size and height of building; location or exterior walls at all levels with respect to lot lines, streets, and other buildings; building coverage; gross floor area of buildings in relation to lot area; setback requirements; and amount of lot area provided per dwelling unit.

LOT WIDTH, MINIMUM: The closest distance between the side lot lines of a lot.

LOW IMPACT BUSINESS: A business, profession, occupation, or trade that is conducted for financial gain, and that does not change the rural and/or residential character of the neighborhood.

MANUFACTURED HOUSING: See MRS Title 30-A Section 4358 for definitions and requirements for MANUFACTURED HOUSING, MODULAR HOMES, NEWER MOBILE HOME, AND OLDER MOBILE HOME.

MARINA: A business establishment having frontage on navigable water and, as its principal use, providing for hire offshore moorings or docking facilities for boats, and that may also provide accessory services such as boat and related sales, boat repair and construction, indoor and outdoor storage of boats and marine equipment, bait and tackle shops, and marine fuel service facilities.

MARINE FACILITY: See MARINA.

MARKET VALUE: The estimated price a property may bring in the open market and under prevailing market conditions in a sale between a willing seller and a willing buyer, both conversant with the property and with prevailing general price levels.

MEAN HIGH WATER MARK: The point of the average height of high-water over a nineteen (19) year period.

MEAN LOW WATER MARK: The point of the average height of low-water over a nineteen (19) year period.

MEDICAL CLINIC: A building used by members of the medical profession for the diagnosis and out-patient treatment of human ailments.

MINERAL EXPLORATION: Hand sampling, test boring, or other methods of determining the nature or extent of mineral resources that create minimal disturbance to the land and that include reasonable measures to restore the land to its original condition.

MINERAL EXTRACTION: Any operation within any twelve (12) month period that removes more than one hundred (100) cubic yards of soil, topsoil, loam, sand, gravel, clay, rock, peat, or other like material from its natural location and transports the product removed, away from the extraction site. See also, EARTH MOVING ACTIVITY.

MOBILE HOME, See MANUFACTURED HOUSING: NEWER MOBILE HOME and OLDER MOBILE HOME.

MOBILE HOME PARK: A parcel of land under unified ownership approved by the Town for the placement of three (3) or more mobile homes.

MOBILE BOAT HOIST: A commercial straddle-type mobile hoist and associated structures and devices used for moving boats and other objects in and out of the water, including attached floats and ramps.

MOTOR VEHICLE: A vehicle that is self-propelled and designed for carrying persons or property.

MOTOR VEHICLE RECYCLING FACILITY: A business that purchases or acquires salvage vehicles for the purpose of reselling the vehicles or component parts, rebuilding, or repairing salvage vehicles for resale. (See 30-A M.R.S.A., Section 3752.)

MOTOR VEHICLE REPAIR SERVICE: A place where, with or without the attendant sale of engine fuels, the following services may be carried out: general repair, engine rebuilding, rebuilding or reconditioning of motor vehicles; collision service, such as body, frame, or fender straightening and repair, over-all painting and undercoating of motor vehicles.

MOTOR VEHICLE SALES: A lot arranged, designed, or used for the storage and display for sale of motor vehicles and where no repair work is done except minor incidental repair of motor vehicles or trailers displayed and sold on the premises.

MOTOR VEHICLE, UNSERVICEABLE: Any motor vehicle that is wrecked, dismantled, unable to be operated, or that is not being used for the purposes for which it was manufactured.

MULTI-UNIT RESIDENTIAL: A residential structure containing three (3) or more residential units. See also, STRUCTURAL TERMS.

MUNICIPAL FACILITIES: A building or land that is owned by a public entity and operated under its supervision for a public purpose.

NATIVE: Indigenous to the land or local waters.

NATURAL AREAS AND NATURAL COMMUNITIES, UNIQUE NATURAL AREAS AND NATURAL COMMUNITIES: Areas identified by a governmental agency such as the Maine Department of Agriculture, Conservation and Forestry Natural Areas Program as having significant value as a natural area and any areas identified in the municipality's comprehensive plan.

NATURAL LANDSCAPING: Landscaping composed primarily of organic materials or vegetation indigenous to the area.

NON-CONFORMING:

NON-CONFORMING CONDITION: Non-conforming lot, structure, or use that is allowed solely because it was in lawful existence at the effective date of adoption or amendment of the relevant ordinance.

NON-CONFORMING LOT: A lot of record that, at the effective date of adoption or amendment of the relevant ordinance, does not meet the area requirements of that ordinance.

NON-CONFORMING STRUCTURE: A structure that does not meet any one or more of the following dimensional requirements: setback, height, or lot coverage, but that is allowed solely because it was in lawful existence at the effective date of adoption or amendment of the relevant ordinance.

NON-CONFORMING USE: Use of buildings, structures, premises, land, or parts thereof that is not allowed where it is situated, but that is allowed to remain solely because it was in lawful existence at the time the relevant Ordinance or subsequent amendments took effect.

NORMAL HIGH-WATER LINE (NON-TIDAL WATERS): That line that is apparent from visible markings, changes in the character of soils due to prolonged action of the water, or changes in vegetation, and that distinguishes between predominantly aquatic and predominantly terrestrial land. Areas contiguous with rivers and great ponds that support non-forested wetland vegetation and hydric soils and that are at the same or lower elevation as the water level of the river or great pond during the period of normal high-water are considered part of the river or great pond. For tidal waters, see WETLAND: COASTAL WETLAND.

NORMAL MAINTENANCE AND REPAIR: Work necessary to maintain an improvement or structure in its original or previously improved state or condition. Normal maintenance, and repair shall not include reconstruction, and change in design, structure, use, location, size, or capacity.

OWNER: The person or persons having the right of legal title to, beneficial interest in, or a contractual right to purchase a lot or parcel of land.

PARCEL: The entire area of a tract of land before being divided by a development.

PARKING LOT: An open area other than a street used for the parking of motor vehicles and available for public use whether free, for compensation, or an accommodation for clients or customers.

PARKING SPACE: A surfaced area, enclosed or unenclosed, sufficient in size to store one motor vehicle together with a driveway connecting the parking space with a street, road or alley and permitting ingress and egress of that motor vehicle without the necessity of moving any other motor vehicle.

PERFORMANCE STANDARD: A criterion established to control the use of land and structures. The purpose of performance standards is to provide detailed regulations and restrictions by means of minimum criteria that must be met by users in order to protect neighbors from adverse impacts of adjoining land uses and to protect the general health, safety, and welfare of citizens of the Town.

PERMITTING AUTHORITY: The Planning Board or CEO as designated in this Ordinance to issue permits.

PERSON: An individual, corporation, governmental agency, municipality, trust, estate, partnership, firm, association, company, organization, two or more individuals having a joint or common interest, or other legal entity.

PIER: A permanent platform-type structure adjacent to the shoreline and built over the water or beyond the high-water line or within a wetland. It is supported by pilings or cribbing and used for the berthing, loading, and unloading of vessels.

1. Temporary: Structures that remain in or over the water for less than seven (7) months in any period of twelve (12) consecutive months.
2. Permanent: Structures that remain in or over the water for seven (7) months or more in any period of twelve (12) consecutive months.

PILING: A rigid shaft of metal, wood, concrete, or plastic located in water and permanently affixed to the bottom.

PLACE OF WORSHIP: A church, synagogue, temple, mosque, or other facility that is used for prayer by persons of similar beliefs; and/or a special purpose building that is architecturally designed and particularly adapted for the primary use of conducting formal religious services on a regular basis.

PLATFORM RAMP: A projection from a wharf or pier to which a ramp is attached.

PROFESSIONAL OFFICE: An office of a professional (or group of professionals) such as architects, accountants, dentists, doctors, lawyers, etc..

PUBLIC FACILITY: A facility, including but not limited to buildings, property, recreation areas, and roads, that are owned, leased, or otherwise operated, or funded by a governmental body or public entity.

QUORUM: A majority of the members of a board, committee, or commission required to be present before any valid business can be transacted.

RAMP: A connector between a float or pier, wharf or other bulkhead for access to the water.

RECENT FLOODPLAIN SOILS: The following soil series as described and identified by the National Cooperative Soil Survey:

Fryeburg	Hadley	Limerick
Lovewell	Medomak	Ondawa
Alluvial	Cornish	Charles
Podunk	Rumney	Saco
Suncook	Sunday	Winooski

RECHARGE AREA: An area composed of permeable, porous material through which precipitation and surface water infiltrate and directly replenish groundwater in aquifers.

RECREATIONAL FACILITY: A place designed and equipped for the conduct of sports, leisure time activities, and other customary and usual recreational activities, excluding boat launching facilities.

RECREATIONAL VEHICLE (RV): A vehicle or vehicular attachment designed for temporary sleeping or living quarters for one or more persons that is not a dwelling and that may include a pick-up camper, travel trailer, tent trailer, camp trailer, and motor home. In order to be considered as a vehicle and not as a structure, the unit must remain with its tires on the ground, and must be roadworthy (i.e., possess a current registration sticker from any State Division of Motor Vehicles).

REPLACEMENT SYSTEM, OVERBOARD DISCHARGE: A system intended to replace: 1.) an existing system that is either malfunctioning or being upgraded with no significant change of design flow or use of the structure, or 2.) any existing overboard wastewater discharge.

RESIDENTIAL DWELLING UNIT: See also STRUCTURAL TERMS. A residential structure designed and equipped exclusively for use as living quarters for only one (1) family, including provisions for living, sleeping, cooking, and eating.

RESIDUAL: Materials (including but not limited to pulp and paper mill wastewater treatment plan sludge, food and fiber processing wastes, municipal wastewater treatment plant sludge, vegetable and fish processing residuals, and wood ash) generated from municipal, commercial, or industrial facilities that are suitable for controlled land application and result in vegetative assimilation and improved soil conditions.

RESIDUAL BASAL AREA: The average of the basal area of trees remaining on a harvested site.

RESIDUAL STAND: A stand of trees remaining in the forest following timber harvesting and related activities

RESTAURANT: An establishment whose principal business is the sale of food and/or beverages to consumers in a ready-to-consume state.

RETAIL STORE: Any business engaged primarily in the sale of goods and services to the ultimate consumer for direct consumption and/or use, but not for resale.

RIPRAP: Rocks, irregularly shaped, and at least six (6) inches in diameter, used for erosion control and soil stabilization, typically used on ground slopes of two (2) units horizontal to one (1) unit vertical or less.

RIVER: A free-flowing body of water including its associated floodplain wetlands from that point at which it provides drainage for a watershed of twenty-five (25) square miles to its mouth. The portion of a river that is subject to tidal action is a coastal wetland.

ROAD: A thoroughfare or way consisting of a bed of exposed mineral soil, gravel, asphalt, or other surfacing material constructed for or created by the repeated passage of motorized vehicles.

PRIVATE ROAD: A thoroughfare or way designated for private use and maintained by a property owner or group of property owners.

PUBLIC ROAD: A public thoroughfare, way, or easement permanently established for passage of persons or vehicles.

SALT MARSH: Areas of coastal wetland (most often along coastal bays) that support salt tolerant species, and where at average high tide during the growing season, the soil is irregularly inundated by tidal waters. The predominant species is saltmarsh cordgrass (*Spartina alterniflora*). More open areas often support widgeon grass, eelgrass, and Sago pondweed.

SALT MEADOW: Areas of a coastal wetland that support salt tolerant plant species bordering the landward side of salt marshes or open coastal water, where the soil is saturated during the growing season but which is rarely inundated by tidal water. Indigenous plant species include salt meadow cordgrass (*Spartina patens*) and black rush; common threesquare occurs in fresher areas.

SEASONAL USE: The use of a structure for less than seven (7) months in any period of twelve (12) consecutive months.

SELECTMEN: The Board of Selectmen of the Town, also known as Selectpersons, or Select Board. Municipal officers as defined in 1 M.R.S.A., Chapter 3 Section 72 include Selectmen.

SERVICE DROP: Any utility line extension, whether above-ground or underground, that does not cross or run beneath any portion of a water body provided that:

1. In the case of electric service, the placement of wires and/or the installation of utility poles is located entirely upon the premises of the customer requesting service or upon a roadway right-of-way.
2. In the case of telephone service, the extension, regardless of length, may be made by the installation of telephone wires to existing utility poles.

SETBACK: The minimum distance from the edge of the lot line to the nearest part of a structure.

SETBACK, FRONT: An open area extending the entire width of a lot from lot sideline to lot sideline and extending at a right angle from the front property line of such lot to such depth as specified. Such area shall be unoccupied and unobstructed by any building from the ground upward.

SETBACK, REAR: An open area extending the entire width of a lot from lot sideline to lot sideline and extending at a right angle from the rear property line of such lot to such depth as specified. Such area shall be unoccupied and unobstructed by any building from the ground upward.

SETBACK, SHORELINE: The nearest horizontal distance from the NORMAL HIGH-WATER LINE of a water body or tributary stream, or upland edge of a wetland, to the nearest part of a structure, road, parking space, or other regulated object or area.

SETBACK, SIDE: An open area extending along each sideline of a lot between the front setback and the rear setback on such lot and extending at a right angle from the sidelines of such lot to such depth as specified. Such area shall be unoccupied and unobstructed by any building from the ground upward.

SHORE FRONTAGE: The length of a lot bordering on a water body or wetland measured along the shoreline between the intersections of the lot lines with the shoreline.

SHORELAND ZONE: See the Shoreland Zoning Ordinance.

SHORELINE: The normal high-water line, or upland edge of a freshwater wetland or coastal wetland.

SIGNAGE: A structure, display, logo, writing, device, or representation that is designed or used to announce, display, advertise, promote, identify, name, or call attention to any structure, person, business, activity, or place or to warn of prohibited activities and that is visible from a public way.

AREA OF A SIGN: The exposed surface of the sign including all ornamentation, embellishment, background, and symbols.

FREE-STANDING SIGN: A sign supported by one or more uprights or braces permanently affixed.

PORTABLE SIGN: A sign not designed or intended to be permanently affixed into the ground or to a structure.

PROJECTING SIGN: A sign that is wholly or partly dependent upon a building for support and that projects more than 12 inches from such building.

ROOF SIGN: A sign that is attached to a building and is displayed above the eaves of such building.

SIGN ITEMS: Device, model, banner, pennant, insignia, flag, or other representation that is used as, or is in the nature of, an advertisement, announcement, or direction.

TEMPORARY SIGN: A sign of a temporary nature, erected for fewer than ninety (90) days, exemplified by the following: political poster, charitable sign, construction sign, carnival sign, garage sale sign, lawn sale sign, rummage sale sign, and any sign advertising sales of personal property, and a for rent sign.

WALL SIGN: A sign painted on, or attached parallel to, the wall surface of a building and projecting therefrom not more than six (6) inches.

WINDOW SIGN: Any on-premises, non-temporary sign visible from the exterior of the building or structure that is permanently painted, attached, glued, or otherwise affixed to a window.

SIGNIFICANT TRAFFIC INCREASE: An increase in the use of public roads from the entry and exit of heavy trucks and other heavy equipment to public roads from private property that occurs more than thirty (30) times in a twenty-four (24) hour period.

SIGNIFICANT WILDLIFE HABITAT: An area identified by a governmental agency such as the Maine Department of Inland Fisheries and Wildlife as having significant value as a habitat for animals and any areas identified in the municipality's comprehensive plan.

SKID ROAD OR SKID TRAIL: A route repeatedly used by forwarding machinery or animals to haul or drag forest products from the stump to the yard or landing, the construction of which requires minimal excavation.

SLOPE: The grade as measured in a straight line in any direction through any part of the structure, beginning and ending one hundred (100) feet from the intersections of the line with the exterior of the structure.

SLUDGE: Any solid, semisolid, or liquid residue removed during the treatment of municipal wastewater or domestic sewage. Sewage sludge includes, but is not limited to, solids removed during primary, secondary, or advanced wastewater treatment, scum, septage, portable toilet pumpings, type III marine sanitation device pumpings (33 CFR part 159), and sewage sludge products. Sewage sludge does not include grit or screenings, or ash generated during the incineration of sewage sludge. Sewage sludge use or disposal practice means the collection, storage, treatment, transportation, processing, monitoring, use, or disposal of sewage sludge.

STREAM: A channel between defined banks created by the action of surface water and has 2 or more of the following characteristics:

- A. It is depicted as a solid or broken blue line on the most recent edition of the U.S. Geological Survey 7.5-minute series topographic map or, if that is not available, a 15-minute series topographic map.
- B. It contains or is known to contain continuously flowing water for a period of at least 6 months of the year in most years.
- C. The channel bed is primarily composed of mineral material such as sand and gravel, parent material, or bedrock that has been deposited or scoured by water.
- D. The channel contains aquatic animals such as fish, aquatic insects, or mollusks in the water or, if no surface water is present, within the stream bed.
- E. The channel contains aquatic vegetation and is essentially devoid of upland vegetation.

STRUCTURAL TERMS:

DWELLING: A building or similar structure or portion thereof, used exclusively for residential occupancy, including single-family, two-family, multiple family dwellings, and manufactured housing.

DWELLING, MULTI-FAMILY: A building or similar structure or portion thereof used for residential occupancy by three (3) or more families living independently of each other and doing their own cooking in the building, including apartments, group houses, and row houses.

DWELLING, SEASONAL: A dwelling unit that is not adapted to year-round habitation due to the nature of its construction such as the absence of sufficient insulation, heating system, water supply, or sewage disposal system.

DWELLING, SINGLE-FAMILY DETACHED: A dwelling designed for and occupied by not more than one (1) family and having no roof, wall, or floor in common with any other dwelling unit.

DWELLING, TWO-FAMILY: A detached or semi-detached building or similar structure used for residential occupancy by two (2) families living independently of each other.

DWELLING UNIT/APARTMENT: A room or group of rooms designed and equipped exclusively for use as living quarters for only one (1) family, including provisions for living, sleeping, cooking, and eating.

STRUCTURE: Anything constructed, fabricated, or erected for the support, shelter, or enclosure of persons, animals, goods, or property of any kind.

STRUCTURE, ACCESSORY: A building or similar structure that (1) is subordinate in area, extent, and purpose to the principal building or use served, (2) is located on the same lot as the principal building or use served except as otherwise expressly authorized by the provisions of this Ordinance, and (3) is customarily incidental to the principal building or use. Any portion of a principal building devoted or intended to be devoted to an accessory use is not an accessory or similar structure.

STRUCTURE, EXEMPTED: Wiring and other aerial equipment normally associated with service drops together with associated guying and guy anchors, wire or light wooden fencing, not more than eight (8) feet high; customary lawn accessories such as mailboxes, benches, and other such items as determined by the CEO; external oil, gas, propane, or water tanks with no greater than five hundred (500) gallon capacity; buildings under one hundred (100) square feet in floor area and no more than one (1) story; boundary walls; fences; at-grade walkways; patios; flagpoles; light poles; and signs; temporary buildings.

STRUCTURE, PRINCIPAL: A building or similar structure in which is conducted or in which is intended to be conducted, the main or primary use of the lot on which it is located.

SUBMERGED LAND: All land seaward from the mean low-water mark or a maximum of 1,650 feet seaward of the mean high-water mark, whichever is closer to the mean high-water mark, out to the 3-mile territorial State marine boundary.

SUBSTANTIALLY COMMENCED: Construction shall be considered to be substantially commenced when any work beyond the state of excavation, including but not limited to, the pouring of a slab, footings or foundation walls, the installation of piles, the construction of columns or the placement of a manufactured home on a foundation has begun.

SUBSTANTIALLY COMPLETED: Construction shall be considered to be substantially completed when it has been completed to the point where normal functioning, use or occupancy can occur without concern for the general health, safety, and welfare of the occupant and the general public. At a minimum, it shall include the completion of no less than ninety-five (95) percent of the proposed improvements within a development and shall include permanent stabilization and/or re-vegetation of areas of the site that were disturbed during construction.

SUBSURFACE SEWAGE DISPOSAL SYSTEM: A system designed to dispose of human waste or wastewater on or beneath the surface of the earth; includes, but is not limited to: septic tanks; disposal fields; grandfathered cesspools; holding tanks; pretreatment filter, piping; or any other fixtures, mechanisms, or apparatus used for those purposes. It does not include any discharge system licensed under 38 M.R.S.A., Section 414, any surface wastewater disposal system, or any municipal or quasi-municipal sewer or wastewater treatment system.

SUSTAINED SLOPE: A change in elevation where the referenced percent grade is substantially maintained or not exceeded throughout the measured area.

TAXPAYER: A person listed in the Town's property tax roll.

TIDAL WATERS: All waters affected by tidal action.

TIDELAND: Land alternately covered and uncovered by the tide between high and low tides.

TIMBER HARVESTING: The cutting and removal of timber for the primary purpose of selling or processing forest products. The cutting or removal of trees in the shoreland zone on a lot that has less than two (2) acres within the shoreland zone shall not be considered timber harvesting. Such cutting or removal of trees shall be regulated pursuant to the Shoreland Zoning Ordinance.

TIMBER HARVESTING AND RELATED ACTIVITIES: Timber harvesting requiring the construction and maintenance of roads used primarily for timber harvesting and other activities conducted to facilitate timber harvesting.

TOWN: Bremen, Maine.

TOWN CLERK: The Town Clerk of Bremen, Maine.

TOWN WARDEN, SHELLFISH: A Town Shellfish Warden of Bremen, Maine.

TRANSIENT: A non-resident person residing in a dwelling, cabin, or campground located within the Town fewer than thirty (30) days.

TRANSIENT ACCOMMODATIONS: Accommodations (Bed and Breakfast, Boarding House, Motel, Hotel or Inn) that include buildings where rooms are provided for compensation and may include accessory uses such as restaurants, lounges, gift shops, conference rooms, and recreational facilities such as swimming pools and game rooms. See also, BED AND BREAKFAST.

TRIBUTORY STREAM: A channel between defined banks created by the action of surface water that is characterized by the lack of terrestrial vegetation or by the presence of a bed, devoid of topsoil, containing waterborne deposits or exposed soil, parent material, or bedrock; and that is connected hydrologically with other water bodies. Tributary stream does not include rills or gullies forming because of accelerated erosion in disturbed soils where the natural vegetation cover has been removed by human activity. This definition does not include the term stream as defined elsewhere in this Ordinance, and only applies to that portion of the tributary stream located within the shoreland zone of the receiving water body or wetland. Water setback requirements apply to tributary streams within the shoreland zone.

UPLAND EDGE OF WETLAND: See WETLAND.

USE: The purpose or activity for which land or any building thereon is designed, arranged, or intended, or for which it is occupied or maintained.

ACCESSORY USE: A use subordinate to a permitted use located on the same lot, and clearly incidental and related to the permitted use.

OPEN SPACE USE: A use that does not disturb the existing state of the land except to restore this land to a natural condition.

PERMITTED USE: A use that may be lawfully established provided it conforms to all the requirements, standards, and regulations of this Ordinance.

PRINCIPAL USE: The specific primary purpose for which land is used.

VARIANCE: A relaxation of the terms of this Ordinance where such a variance would not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the owner, a literal enforcement of this Ordinance would result in unnecessary or undue hardship. Variances can only be issued by the Board of Appeals.

VEGETATION: All live trees, shrubs, and other plants including without limitation, trees both over and under four (4) inches in diameter, measured at four and one half (4.5) feet above ground level.

VELOCITY ZONE, FLOODPLAIN: An area of special flood hazard extending from offshore to the inland limit of the primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources.

VERNAL POOL: A shallow depression that usually contains water for only part of the year. Significant vernal pools are a subset of vernal pools with particularly valuable habitat.

VESSEL: A boat of any size propelled by hand, sail, or motor, including scows, dredges, shellfish, cars, and watercraft of any kind.

VOLUME OF STRUCTURE: The volume of all portions of a structure enclosed by a roof and fixed exterior walls as measured from the exterior faces of these walls and roof.

WAREHOUSE AND STORAGE FACILITY: A structure for the storage of merchandise or commodities, including bulk storage and bulk sales outlet.

WATER BODY: Any great pond, river or stream.

WATER CROSSING: A project extending from one bank to the opposite bank of a river, stream, tributary stream, or wetland whether under, through, or over the water or wetland. Such projects include but may not be limited to roads, fords, bridges, culverts, water lines, sewer lines, and cables as well as maintenance work on these crossings. This definition includes crossings for timber harvesting equipment and related activities.

WATERWAY: A water area providing access from one place to another, principally a water area providing a regular route for water traffic.

WETLAND: A coastal, forested and/or freshwater wetland.

COASTAL WETLAND: All tidal and subtidal lands; all lands with vegetation present that is tolerant of salt water and occurs primarily in a salt water or estuarine habitat; and any swamp, marsh, bog, beach, flat, or other contiguous low land that is subject to tidal action during the highest tide level for the year in which an activity is proposed as identified in tide tables published by the National Oceanic and Atmospheric Administration (NOAA). Coastal wetlands may include portions of coastal sand dunes. All areas below the maximum spring tide level are coastal wetlands. These areas may consist of rocky ledges, sand and cobble beaches, mud flats, etc., in addition to salt marshes and salt meadows.

FORESTED WETLAND: A freshwater wetland dominated by woody vegetation that is six (6) meters tall (approximately twenty [20] feet) or taller.

FRESHWATER WETLAND: Freshwater swamps, marshes, bogs, and similar areas, other than forested wetlands, that are:

1. Of ten (10) or more contiguous acres; or of less than ten (10) contiguous acres and adjacent to a surface water body, excluding any river, stream, or brook, such that in a natural state, the combined surface area is in excess of ten (10) acres; and
2. Inundated or saturated by surface or groundwater at a frequency and for a duration sufficient to support and that under normal circumstances do support a prevalence of wetland vegetation typically adapted for life in saturated soils.

Freshwater wetlands may contain small stream channels or inclusions of land that do not conform to the criteria of this definition.

UPLAND EDGE OF WETLAND: The boundary between upland and wetland. For purposes of a coastal wetland, this boundary is the line formed by the landward limits of the salt tolerant vegetation and/or the maximum spring tide level, including all areas affected by tidal action. For purposes of a freshwater wetland, the upland edge is formed where the soils are not saturated for a duration sufficient to support wetland vegetation; or where the soils support the growth of wetland vegetation, but such vegetation is dominated by woody stems that are six (6) meters (approximately twenty [20] foot) tall or taller.

WHARF: See PIER.

WHOLESALE BUSINESS ESTABLISHMENT: A business, housed in a permanent structure, engaged in the sale of goods in large amounts to retailers or jobbers, rather than directly to consumers.

WIND ENERGY FACILITY: An electricity generating facility consisting of one or more wind turbines under common ownership or operating control, and includes substations, MET (meteorological) Towers, cables/wires, and other buildings accessory to such facility, whose main purpose is to supply electricity to off-site customer(s).

WINDFIRM: The ability of forest stands to withstand strong winds and major breakage.

WOODY VEGETATION: Live trees or woody, non-herbaceous shrubs.

YARD: See SETBACK.

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TOWN OF BREMEN
PO BOX 171, 208 WALDOBORO RD
BREMEN, MAINE 04551
(207) 529-5945 • FAX (207) 529-6302

MUNICIPALITY OF BREMEN
MORATORIUM ORDINANCE ON RETAIL MARIJUANA ESTABLISHMENTS
AND RETAIL MARIJUANA STORES AND RETAIL MARIJUANA SOCIAL CLUBS

Enacted: January 5, 2017

Certified by:



Kelly A. Clancy
Deputy Town Clerk

**MUNICIPALITY OF BREMEN MORATORIUM
ORDINANCE ON RETAIL MARIJUANA ESTABLISHMENTS AND RETAIL
MARIJUANA STORES AND RETAIL MARIJUANA SOCIAL CLUBS**

WHEREAS, the “Marijuana Legalization Act,” has become law in Maine, codified in the Maine Revised Statutes in Title 7, chapter 417; and

WHEREAS, the Marijuana Legalization Act (hereinafter, “Act”) authorizes municipalities to regulate the number of retail marijuana stores and the location and operation of retail marijuana social clubs and retail marijuana establishments, including retail marijuana stores, retail marijuana cultivation facilities, retail marijuana products manufacturing facilities and retail marijuana testing facilities, as those terms are defined in the Act, as well as providing the option to prohibit the operation of retail marijuana social clubs and retail marijuana establishments, including stores, cultivation facilities, manufacturing facilities and testing facilities, within their jurisdiction; and

WHEREAS, the proposed Act will not limit the privileges or rights afforded by the Maine Medical Use of Marijuana Act (22 M.R.S.A. §§ 2421 – 2430-B) to qualifying patients, primary caregivers, or registered dispensaries, including cultivation facilities associated with any of those classifications; and

WHEREAS, the Municipality’s current ordinances do not include any regulations related to retail marijuana stores, retail marijuana establishments or retail marijuana social clubs under the proposed new Act; and

WHEREAS, the unregulated location and operation of retail marijuana establishments, retail marijuana stores and retail marijuana social clubs within the Municipality of Bremen raises legitimate and substantial questions about the impact of such establishments, stores and social clubs on the Municipality, including questions about the compatibility of retail marijuana establishments, retail marijuana stores and retail marijuana social clubs with existing uses and development in residential, commercial and industrial zoning districts; the potential adverse health and safety effects of retail marijuana establishments, retail marijuana stores and retail marijuana social clubs on the community if not properly regulated; the possibility of illicit sale and use of marijuana and marijuana products to minors and misuse of marijuana and marijuana products by those who would abuse the uses authorized under the Act; potential criminal activity associated with the cultivation, manufacturing, sale and use of marijuana and marijuana products for non-medicinal purposes and the potential increased burden on the Municipality’s police and fire departments; and the adequacy of the Municipality’s streets and infrastructure to accommodate the additional traffic and/or population that may result from the presence of retail marijuana establishments, retail marijuana stores or retail marijuana social clubs; and

WHEREAS, the possible effect of the location and operation of retail marijuana establishments and/or retail marijuana stores and/or retail marijuana social clubs within the Municipality has potentially serious implications for the health, safety and welfare of the Municipality and its residents; and

WHEREAS, the Municipality needs time to review the Act and to review its own ordinances to determine the implications of future proposed retail marijuana establishments and/or retail marijuana stores and/or retail marijuana social clubs to develop reasonable ordinances governing the location and operations of such establishments and stores and social clubs to address the concerns cited above; and

WHEREAS, the Municipality's current ordinances are insufficient to prevent serious public harm that could be caused by the unregulated development of retail marijuana establishments and retail marijuana stores and retail marijuana social clubs and other uses authorized by the Act, thereby necessitating a moratorium; and

WHEREAS, the board of municipal officers, the administration and the planning board, with the professional advice and assistance of the police department, shall study the Municipality's current ordinances to determine the land use and other regulatory implications of retail marijuana establishments and retail marijuana stores and retail marijuana social clubs and consider what locations, if any, and conditions of approval, if any, might be appropriate for such uses; and

WHEREAS, a moratorium is necessary to prevent an overburdening of public facilities that is reasonably foreseeable as the result of retail marijuana establishments and retail marijuana stores and retail marijuana social clubs and other uses authorized by the Act, being located in the Municipality; and

WHEREAS, it is anticipated that such a study, review, and development of recommended ordinance changes will take at least one hundred and eighty (180) days from the date the Municipality enacts this Moratorium Ordinance on retail marijuana establishments and retail marijuana stores and retail marijuana social clubs;

NOW, THEREFORE, be it ordained by the legislative body of the Municipality of Bremen, that the following Moratorium Ordinance on retail marijuana establishments and retail marijuana stores and retail marijuana social clubs be, and hereby is, enacted, and, in furtherance thereof, the legislative body does hereby declare a moratorium on the location, operation or licensing of any retail marijuana social clubs and any retail marijuana establishments, including retail marijuana stores, retail marijuana cultivation facilities, retail marijuana products manufacturing facilities and retail marijuana testing facilities, within the Municipality.

This Moratorium Ordinance shall take effect, once enacted by the legislative body, but shall be applicable as of January 5, 2017 as expressly provided below. The moratorium shall remain in effect for one hundred and eighty (180) days from the date of applicability of this Ordinance, unless extended, repealed, or modified by the legislative body, for the express purpose of drafting an amendment or amendments to the Municipality's current ordinances to protect the public from health and safety risks including, but not limited to, compatibility of retail marijuana establishments, retail marijuana stores and retail marijuana social clubs with existing and permitted uses in residential, commercial and industrial zoning districts; the correlation of retail marijuana establishments, retail marijuana stores and retail marijuana social clubs with medical marijuana cultivation facilities and dispensaries, all as defined in the Act; the

potential adverse health and safety effects of retail marijuana establishments and retail marijuana stores and retail marijuana social clubs on the community if not properly regulated; the possibility of illicit sale and use of marijuana and marijuana products to minors and misuse of marijuana and marijuana products by those who would abuse the uses authorized under the new law; criminal activity associated with the cultivation, manufacturing, sale and use of marijuana and marijuana products for non-medicinal purposes and the potential increased burden on the public safety agencies serving the Municipality in responding to the same; and the adequacy of the Municipality's infrastructure to accommodate the additional traffic and/or population that may result from the presence of retail marijuana establishments or retail marijuana stores or retail marijuana social clubs in the Municipality.

BE IT FURTHER ORDAINED, that this Ordinance shall apply to retail marijuana stores and retail marijuana social clubs and retail marijuana establishments, including retail marijuana stores, retail marijuana cultivation facilities, retail marijuana products manufacturing facilities and retail marijuana testing facilities, as those terms are defined by the Act, codified at 7 M.R.S.A. §§ 2442 (36), (38), (39), (40) (41), that may be proposed to be located within the Municipality on or after the 5th day of January, 2017, applicability date of this Ordinance; and

BE IT FURTHER ORDAINED, that notwithstanding the provisions of 1 M.R.S.A. § 302 or any other law to the contrary, this Ordinance, when enacted, shall govern any proposed retail marijuana establishments or retail marijuana stores or retail marijuana social clubs for which an application for a building permit, Certificate of Occupancy, site plan or any other required approval has not been submitted to and granted final approval by the Code Enforcement Officer, Planning Board or other Municipal official or board prior to the applicability date of this Ordinance; and

BE IT FURTHER ORDAINED, that no person or organization shall develop or operate a retail marijuana establishment or retail marijuana store or retail marijuana social club within the Municipality on or after the effective date of this Ordinance without complying with whatever ordinance amendment or amendments the legislative body may enact as a result of this Moratorium Ordinance; and

BE IT FURTHER ORDAINED, that during the time this Moratorium Ordinance is in effect, no officer, official, employee, office, administrative board or agency of the Municipality shall accept, process, approve, deny, or in any other way act upon any application for a license, building permit or any other type of land use approval or permit and/or any other permits or licenses related to a retail marijuana establishment or retail marijuana stores or retail marijuana social club; and

BE IT FURTHER ORDAINED, that those provisions of the Municipality's ordinances that are inconsistent or conflicting with the provisions of this Ordinance, are hereby repealed to the extent that they are applicable for the duration of the moratorium hereby ordained, and as it may be extended as permitted by law, but not otherwise; and

BE IT FURTHER ORDAINED, that if retail marijuana establishments or retail marijuana stores or retail marijuana social clubs are established in violation of this Ordinance, each day of any continuing violation shall constitute a separate violation of this Ordinance, and the Municipality shall be entitled to all rights available to it in law and equity, including, but not limited to, fines and penalties, injunctive relief, and its reasonable attorney's fees and costs in prosecuting any such violations; and

BE IT FURTHER ORDAINED, that should any section or provision of this Ordinance be declared by any court of competent jurisdiction to be invalid, such a declaration shall not invalidate any other section or provision.

SEPTEMBER 30, 1994
January 27, 1995

April 8, 1995

MOBILE HOME PARK ORDINANCE

SECTION 1. TITLE AND PURPOSE

This Ordinance may be cited as the Mobile Home Park Ordinance of the Town of Bremen, Maine and is referred to as "this Ordinance".

The purpose of this Ordinance is to promote the orderly development of mobile home parks, and to ensure the health, safety, and general welfare of the residents of the park and the Town of Bremen.

SECTION 2. AUTHORITY AND EFFECTIVE DATE

This Ordinance is adopted pursuant to Home Rule Powers Article VIII-A of the Maine Constitution and in 30-A MRSA Chapter 141, and 30-A MRSA Section 4358.

This Ordinance is effective upon its adoption by vote of the Town Meeting on April 8, 1995.

SECTION 3. APPLICABILITY

This Ordinance applies to each proposal for new construction of a mobile home park and to an expansion of an existing mobile home park.

Approval of a mobile home park plan is required, prior to any construction or earth moving in preparation for constructing a mobile home park.

Approval under this Ordinance does not exempt an applicant from meeting other applicable local, State, or federal requirements, including subdivision and Shoreland Zoning requirements.

A mobile home park in which each lot meets the Town's requirement of minimum lot size for a single family dwelling and which park would be subject to the Town's subdivision ordinance is not required to meet the provisions of this ordinance.

SECTION 4. SEVERABILITY

If any section of this Ordinance is declared to be invalid, that decision shall not invalidate any other section or provision of this Ordinance.

SECTION 5. CONFLICT WITH OTHER ORDINANCES

Where this Ordinance imposes a greater restriction upon the use of the land, buildings, or structures, than any other rule, regulation, bylaw, permit statute, ordinance or other provision of law, the provisions of this Ordinance shall prevail.

SECTION 6. DEFINITIONS

The definitions of 30-A MRSA Section 4358 and 30-A MRSA Section 4401 and the Bremen Subdivision Ordinance are adopted for this Ordinance, to the extent applicable. In addition, these specific definitions apply.

- A. "Manufactured housing" means a structural unit or units designed for occupancy and constructed in a manufacturing facility and transported, by the use of its own chassis or an independent chassis, to a building site. The term includes any type of building which is constructed at a manufacturing facility and transported to a building site where it is used for housing and may be purchased or sold by a dealer in the interim. For purposes of this section, two types of manufactured housing are included. Those two types are:
1. Those units constructed after June 15, 1986, commonly called "newer mobile homes," which the manufacturer certifies are constructed in compliance with the United States Department of Housing and Urban Development standards, meaning structures transportable in one or more sections, which in the traveling mode are 14 body feet or more in width and are 750 or more square feet, and which are built on a permanent chassis and designed to be used as dwellings, with or without permanent foundations, when connected to the required utilities including the plumbing, heating, air conditioning or electrical systems contained in the unit. This term also includes any structure which meets all requirements of this subparagraph, except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of the United States Department of Housing and Urban Development and complies with the standards established under the National Manufactured Housing Construction and Safety Standards Act of 1974, United States Code, Title 42, Section 5401, et seq.; and
 2. Those units commonly called "modular homes," which the manufacturer certifies are constructed in compliance with Title 10, chapter 957, and rules adopted under that chapter, meaning structures, transportable in one or more sections, which are not constructed on a permanent chassis and are designed to be used as dwellings on foundations when connected to required utilities, including the plumbing, heating, air-conditioning or electrical systems contained in the unit.

- B. "Mobile home park" means a parcel of land under unified ownership approved by the municipality for the placement of 3 or more manufactured homes.
- C. "Mobile home park lot" means the area of land on which an individual home is situated within a mobile home park and which is reserved for use by the occupants of that home. A municipality may require a lot to be designated on a mobile home park plan.
- D. "Mobile home subdivision or development" means a parcel of land approved by the municipal reviewing authority under the Subdivision Law, Title 30-A, M.R.S.A. Sections 4401-4407, for the placement of manufactured houses on individually owned lots.

SECTION 7. MOBILE HOME PARK REVIEW

1. Application

Prior to establishing or expanding of a mobile home park, an applicant must apply for approval to the Planning Board. The application must include four copies of a narrative description and site plan and other plans and elevations as necessary to describe the proposed project, drawn to scale, containing the following information, where applicable:

1. Name and address of applicant.
2. Name and address of owner of property, if different from applicant.
3. A description of the applicants' interest in the property (option, purchase contract, lease, record ownership, etc.).
4. The scale of the drawings submitted and a compass rose.
5. Boundaries of the tract of land. The Planning Board may require a survey by a licensed surveyor.
6. Location of existing and proposed mobile home sites and other structures.
7. Location of buildings on abutting properties within 300 feet of the property line of the proposed park.
8. A list of the names and addresses of all owners of property within 1000 feet of the boundaries of the mobile home park.
9. Location of existing public streets, roads and rights-of-way.
10. Location of proposed access drives to the lot from public streets or roads.

11. Location and arrangement of proposed off-street parking and loading areas and their appurtenant drives and maneuvering areas.
12. Location of existing and proposed pedestrian walkways.
13. Location of existing and proposed utilities and easements therefore, including sanitary sewerage, water supply, and electricity.
14. Location of existing natural drainage and proposed storm drainage facilities, including dimensions of culverts, pipes, etc.
15. Location, intensity, type, size and direction of all outdoor lighting.
16. Location and proposed use of areas for outdoor recreation.
17. Location and type of existing and proposed fences, substantial vegetation, and individual trees of 6-inch diameter and over at a point 4.5 feet above ground level.
18. Contour lines at appropriate intervals to show the effect of existing and proposed grades for areas to be excavated or filled.
19. Location and size of signs and all permanent outdoor fixtures.
20. Information About Soils Conditions on the Site. If subsurface sewage disposal is proposed, the information shall include evidence of soil suitability according to the State of Maine Subsurface Wastewater Disposal Rules. The Site Plan shall show the location of soil test areas and natural wet areas. If no subsurface sewage disposal is proposed, medium intensity soils survey information about the site shall be included in the application. The Planning Board may require more extensive soils information to adequately review the proposal.
21. A groundwater analysis as required by Section 9 of this Ordinance.
22. Other information as required by specific provisions of this Ordinance, or requested by the Planning Board to adequately review the proposal.

Submission of Application

1. An application for a mobile home park permit must be submitted to the Chairman of the Planning Board who shall issue to the applicant a dated receipt.

2. Within thirty (30) days from the date of receipt, the Planning Board shall notify the applicant in writing either that the application is complete or, if the application is incomplete, the specific additional material needed to make a complete application. The Planning Board shall make a determination as to the completeness of the application. Determination by the Planning Board that the application is complete in no way commits or binds the Planning Board as to the adequacy of the application to meet the criteria of this ordinance.

3. The application shall be accompanied by a fee of \$_____ per lot or unit. All checks shall be made payable to the Town of Bremen.

2. Public Hearing

The Planning Board may, but is not required, to hold a public hearing on the proposed mobile home park.

- a. It shall hold that public hearing within 30 days of having notified the applicant in writing that the application is complete.
- b. It shall cause notice of the date, time and place of that hearing to be given to the applicant, all property owners within one thousand (1,000) feet of the boundaries of the mobile home park and to be published in a newspaper of general circulation in Bremen at least once, at least seven (7) days prior to the hearing.
- c. The decision to hold a public hearing is discretionary, and in making its decision, the Planning Board may consider the size and type of mobile home park, the community impact, and whether any written requests for such a hearing have been received.

3. Planning Board Decision

- a. In all instances, the burden of proof shall be upon the applicant.
- b. The Planning Board shall, within 30 days of a public hearing, or within 60 days of having received a complete application, if no hearing is held, or within such other time limit as may be mutually agreed to, issue an order denying or granting approval of the proposed mobile home park, or granting approval on such terms, conditions, or limitations as it may deem advisable. In issuing its decision, the Planning Board shall make a written finding of fact establishing that the proposed mobile home park does or does not meet the provisions of these regulations.
- c. Plans for road construction, grading and ditching shall be reviewed by the Road Commissioner for recommendations as part of the

Board's consideration.

- d. On approval of the mobile home park, a majority of the Board shall sign all four copies of the plan, noting any conditions, terms or limitations on or attached to the plan.
 - e. The original shall be filed by the applicant with the County Registry of Deeds, one copy shall be retained by the applicant, one copy shall be retained by the Planning Board, and one copy shall be filed with the Town Clerk.
 - f. The Planning Board shall maintain a permanent record of their action on each application.
4. Expiration of Approval. An approval expires within one year of the date of issuance unless construction substantially commenced within that time. If work is not completed within two years from the date of issue, a new application must be made.
 5. Construction Prohibited. No utility installations, no ditching, grading or construction of roads, no grading of land or lots, and no construction of buildings or siting of mobile homes shall be done on any part of the mobile home park until the application has been approved, and an attested copy of the plan so endorsed has been recorded in the Registry of Deeds.
 6. Plan Revisions After Approval. No changes, erasures, modifications, or revisions may be made in a plan after approval by the Planning Board, unless the plan is first re-submitted and the Planning Board approves the changes.
 7. Limitation on Units. After the effective date of this Ordinance, "manufactured housing" meeting the safety standards contained in Section 9 of this Ordinance, may be located in an approved mobile home park. No site built home, or manufactured housing unit which fails to meet the safety standards of this Ordinance, may be located in a mobile home park.
4. Appeals

An appeal may be taken within thirty days after final decision is rendered by the Planning Board by any party to Superior Court in accordance with the Rules of Civil Procedure.

SECTION 9. MINIMUM DESIGN AND PERFORMANCE STANDARDS

A. Use Limitations

No dwelling other than manufactured housing may be located in a mobile home park.

B. Lot Size, Width, and Density

Lots in a mobile home park must meet the following lot size, width, and density requirements.

1. For lots served by public sewer:

Minimum lot area - 6,500 square feet or the smallest lot size permitted under any other Bremen ordinance, whichever is less.

Minimum lot width - fifty (50) feet.
Minimum lot frontage - fifty (50) feet.

2. For lots served by an individual subsurface sewage disposal system:

Minimum lot area - twenty thousand (20,000) square feet.
Minimum lot width - one hundred (100) feet.
Minimum lot frontage - one hundred (100) feet.

3. For lots served by a central subsurface wastewater disposal system as approved by the Department of Human Services:

Minimum lot area - twelve thousand (12,000) square feet.
Minimum lot width - seventy five (75) feet.
Minimum lot frontage - seventy five (75) feet.

4. Lot frontage shall be measured in a straight line between the intersections of the side lot lines and the front lot line. Where lots front on a curved right-of-way or are served by a driveway, the frontage requirement shall be measured in a straight line perpendicular to the setback line and at the face of the unit.

5. The overall density of the mobile home park shall be the combined area of its mobile home lots plus:

- a) The area required for road rights-of-way;
- b) The area required for buffer strips, if any;
- c) For areas served by public sewer, an open space area for storage and recreation equal to 10% (or less than 10%) of the combined area of the individual lots; and
- d) The area within the Shoreland zoning setback.

C. Lot Setbacks

1. The following lot setbacks shall apply to all homes and accessory buildings:

Front setback: twenty (20) feet
Side setback: twenty (20) feet
Rear setback: ten (10) feet

If a lot is on a public road, the setback shall conform with the residential setback requirements applicable to residential dwelling units.

D. Lot Coverage

All buildings on the lot, including accessory buildings and structures, but excluding open decks and parking spaces, may not cover more than fifty percent (50%) of the lot area.

E. Buffer Strips

1. A 50 foot wide buffer strip must be provided along all property boundaries that:
 - a. Abut residential land which has a gross density of less than half of that proposed in the park, or
 - b. Abut residential land that is zoned at a density of less than half of that proposed in the park.

No structures, roads or utilities may be placed in the buffer strip except to cross a buffer strip to provide services to the park.

2. Within 25 feet of any property line and within the buffer strip, visual screening and/or landscaping shall be provided. The visual screening may consist of fences, berms, landscaping (such as shrubs and trees) and/or natural existing vegetation. This screening must effectively screen at least 80% of the homes from view from the adjacent property and shall be maintained throughout the life of the project. (This paragraph should be included only if other types of residential developments are subject to requirements at least as stringent as the requirements set forth in this paragraph.)

G. Conversion of Park

No lot in a mobile home park may be sold without the prior approval of the Planning Board. Any lot sold or conveyed must meet the lot size requirement for a site-built, single family dwelling.

H. Fire Protection

Each lot shall be legibly marked on-site for identification, and easily accessible to emergency vehicles (permitting fire apparatus to approach within 100 feet).

I. Ground Water

1. Application

For mobile home parks not served by a public sewer, the application shall include an assessment of the effect of park development on ground water quality. The assessment shall be prepared by a Certified Geologist or Registered Professional Engineer, and shall include the following:

- a) A map showing the basic soil types.
- b) A map showing the location of any subsurface wastewater disposal systems and drinking water wells within the mobile home park and within 200 feet of the mobile home park boundaries.
- c) The depth to the water table at representative points throughout the mobile home park.
- d) Drainage conditions throughout the mobile home park.
- e) Data on the existing ground water quality, either from test wells in the park or from existing wells on neighboring properties.
- f) An analysis and evaluation of the effect of the mobile home park on ground water resources. The evaluation shall, at a minimum, include a projection of post development nitrate-nitrogen concentrations at whichever of the following is located closest to the subsurface sewage disposal system: (1) any wells within the park; (2) the mobile home park boundaries; or (3) a point located a distance of 1000 feet from the subsurface sewage disposal system. For mobile home parks within the watershed of a lake, projections of the development's effect on ground water phosphate concentrations must also be provided.

2. Standards

The applicant has the burden of proving that the development of the park or prepared expansion will not pollute a public water supply or aquifer. In addition, the park shall meet the following requirements:

- a) Projections of ground water quality shall be based on the assumption of drought conditions (assuming 60% of annual average precipitation).

- b) A mobile home park may not increase any contaminant concentration in the ground water to more than one half of the Primary Drinking Water Standards, or to more than the Secondary Drinking Water Standards.
- c) If ground water contains contaminants in excess of the primary standards, and the mobile home park is to be served by on-site ground water supplies, the applicant shall demonstrate how water quality will be improved or treated to bring it into compliance with those standards.
- d) If ground water contains contaminants in excess of the secondary standards, the mobile home park may not cause the concentration of the parameters in question to exceed 150% of the ambient concentration.

3. Development

Subsurface waste water disposal systems and drinking water wells must be constructed as shown on the map submitted with the assessment. If construction standards for drinking water wells are recommended in the assessment, those standards must be included as a note on the Plan.

J. Lighting

Outdoor lighting must be provided to adequately illuminate internal streets and pedestrian walkways. Lights must be sized and directed to avoid adverse impact on adjacent properties.

K. Open Space Requirements for Lots Served by Public Sewer

1. Open Space Suitability

At least 50% of the required open space shall consist of land that is suitable for active recreation or storage.

2. Developed Open Space

All developed open space shall be designed and landscaped for the use and enjoyment of the park residents and shall be maintained for their long term use. Plans for these areas and their maintenance shall be submitted by the developer.

3. Undeveloped Open Space

To the maximum extent possible, undeveloped open space shall be left in its natural state. Improvements to make trails for walking and jogging or to make picnic areas is permitted.

4. Open Space Ownership

The developer shall submit, as part of the application, a copy of that portion of the proposed park rules and a plan which specify how the open space is to be used and maintained and what conditions are to apply to its use. The plan shall specify the areas to be dedicated to open space, recreation, and storage.

5. Maintenance and Use

Open space shall be maintained and used for its stated purpose.

L. Ownership

Where a developer elects to create a mobile home park where all land is under one ownership, the park plan shall show lots and the developer shall demonstrate that the development standards are met.

M. Park Administration

The owner or operator of a mobile home park shall be responsible for ensuring the maintenance of all structures and their sites. Park management shall conform to state laws.

N. Parking Requirements

For each mobile home lot there shall be provided and maintained at least 2 off-street parking spaces. Each parking space shall contain a minimum area of 200 square feet with minimum dimensions of 10 feet by 20 feet. This requirement may be waived if a parking lane is provided.

In addition to occupant parking, off-street guest and service parking shall be provided within the boundaries of the park at a ratio of 1 space for each 4 mobile home lots. Such parking shall be hard-surfaced.

O. Refuse Disposal

The storage, collection and disposal of refuse in the mobile home park shall be so conducted as to create no health hazards, rodent harborage, insect breeding areas, accident or fire hazards, or air pollution.

P. Road Standards

1. Road Design Standards

- a) Private Roads. Privately owned roads within the mobile home park shall be designed by a Professional Engineer, registered in the State of Maine, and shall be built according to accepted engineering standards.
- b) Roads for Public Acceptance. Roads within mobile home parks which are to be offered for acceptance to the community shall meet the minimum road standards of Bremen.

c) Intersection with Public Roads. Mobile home park roads which intersect with public roads shall meet the following standards:

(1) Angle of intersection. The desired angle of intersection is 90 degrees. The minimum angle of intersection is 75 degrees.

(2) Grade. The maximum permissible grade within 75 feet of the intersection is 2%.

(3) Minimum sight distance. The minimum sight distance shall be 10 times the posted speed limit on the existing road. Sight distances shall be measured from the driver's seat of a vehicle that is 10 feet behind the curb or edge of shoulder line with the height of the eye 3 1/2 feet above the pavement and the height of object 4 1/4 feet. Where necessary, the park land bordering the intersection shall be cleared of all growth and sight obstructions to achieve the required visibility.

2. Access and Circulation

- a) The layout and general development plan for major and minor access streets and driveways within the mobile home park, together with the location and dimensions of access junctions with existing public streets and rights-of-way shall be approved by the Planning Board.
- b) A traffic impact analysis shall be required if the park will generate more than 500 trips/day.
- c) For mobile home parks expected to generate 200 trips per day or more, there shall be at least two entrances from public streets or roads.
- d) On-street parking shall be prohibited unless an eight foot parking lane is provided, in which case on-street parking may be permitted on the side of the road where the parking lane is located.
- e) Curvilinear streets shall be utilized wherever possible. No street within the park shall be more than 200 feet without a curve or bend.
- f) No mobile home lot may have vehicular access directly onto an arterial street.

3. Right-of-way and Pavement Width

- a) Two-way park roads shall have a minimum right-of-way of 23 feet and a minimum paved surface of 20 feet.
- b) One-way streets shall have a minimum right-of-way of 18 feet and a minimum paved surface of 14 feet.

- c) Parking lanes shall be a minimum of 8 feet in width, if provided.
- d) Cul-de-sac turnarounds shall have a minimum radii of 50 feet at the outer edge of the pavement, exclusive of any parking areas.

Q. Safety Standards

(NOTE: You may want to consider applying the safety standards to all manufactured housing as a separate ordinance. The application of safety standards to mobile home parks, but not to units outside parks, may invite legal challenge.)

These standards shall apply to all manufactured housing built before June 15, 1976, or not built according to the National Manufactured Housing Construction and Safety Standards Act of 1974, United States Code, Title 42, Chapter 70, to be located in a mobile home park. The park owner shall have the burden of proving that these standards are met.

1. Exit Facilities - Exterior Doors

- a) Required egress doors shall not be located where a lockable interior door must be used in order to exit.
- b) Units shall have a minimum of two exterior doors not less than 12 feet from each other as measured in any straight line direction regardless of the length of the travel between doors. One of the required exit doors must be accessible from the doorway of each bedroom without traveling more than 35 feet.
- c) All exterior swinging doors shall provide a minimum 28 inches wide by 74 inches high clear opening. All exterior sliding glass doors shall provide a minimum 28 inches wide by 72 inches high clear opening. Locks shall not require the use of a key for operation from the inside.

2. Exit Facilities - Egress Windows and Devices

Units shall have the following emergency egress facilities:

- a) Every room designed expressly for sleeping purposes, unless it has an exit door, must have at least one outside window or approved exit device. If an exit window or device is installed, it shall be listed in accordance with procedures and requirements of AAMA 1704-1985.
- b) The bottom of the window opening must not be more than 36 inches above the floor.
- c) Locks, latches, operating handles, tabs and any other window, screen or storm window devices, which need to be operated in

be placed on the same branch circuit or any circuit protected by a ground fault circuit interrupter.

5. Flame Spread

- a) Ceiling interior finish must not have a flame spread rating exceeding 75.
- b) Walls and ceilings adjacent to or enclosing a furnace or water heater must have an interior finish with a flame spread rating not exceeding 25. Sealants and other trim material 2 inches or less in width used to finish adjacent surfaces within this space are exempt if supported by framing members or by materials having a flame spread rating not exceeding 25.
- c) Exposed interior finishes adjacent to the cooking range must have a flame spread rating not exceeding 50.
- d) Kitchen cabinet doors, countertops, backsplashes, exposed bottoms, and end panels must have a flame spread rating not to exceed 200.
- e) Finish surfaces of plastic bathtubs, shower units, and tub or shower doors must not exceed a flame spread of 200.
- f) A burner of a surface cooking unit must not be closer than 12 horizontal inches to a window or an exterior door.

6. Kitchen Cabinet Protectors

- a) The bottom and sides of combustible kitchen cabinets over cooking ranges to a horizontal distance of 6 inches from the outside edge of the cooking range must be protected with at least 5/16-inch thick gypsum board or equivalent limited combustible material. One-inch nominal framing members and trim are exempted from this requirement. The cabinet area over the cooking range or cooktops must be protected by a metal hood with not less than a 3-inch eyebrow projecting horizontally from the front cabinet face. The 5/16-inch thick gypsum board or equivalent material which is above the top of the hood may be supported by the hood. A 3/8-inch enclosed air space shall be provided between the bottom surface of the cabinet and the gypsum board or equivalent material. The must shall be at least as wide as the cooking range.
- b) The metal hood will not be required if there is an oven installed between the cabinet and the range.
- c) Ranges must have a vertical clearance above the cooking top of not less than 24 inches to the bottom of combustible cabinets.

7. Carpeting

Carpeting must not be used in a space or compartment designed to contain only a furnace and/or water heater. Carpeting may be installed in other areas where a furnace or water heater is installed, provided that it is not located under the furnace or water heater.

8. Roof Loads

All units with roofs added after construction will require a professional engineer to inspect the roof to determine that the roof and unit can withstand the rigors of a winter or wind uplifts that may occur.

9. Heating and Fuel Burning System

A person holding a master license issued by The Oil and Solid Fuel Examining Board must inspect and certify that the heating and fuel system meet the requirements of NFPA-31 - Installation of Oil Burning Equipment as adopted by that Board.

10. Electrical System

A person holding a master license issued by The Maine Electricians Examining Board shall inspect and certify that the electrical system is safe and meets the National Electrical code in effect at the time the unit was constructed.

S. Sanitary Standards - Sewage Disposal

1. All water carried sewage shall be disposed of by means of one of the following:
 - a) A public sewer system. Any mobile home park located within 500 feet of an existing public sewer must connect to that existing public sewer if the municipal system has the capacity to accept the volume of sewage to be produced by the mobile home park.
 - b) A centralized private sewer system approved by the Department of Human Services, serving each mobile home lot in the mobile home park.
 - c) Individual subsurface sewage systems meeting the requirements of the State Plumbing Code.

T. Sidewalks/Walkways

The mobile home park must contain pedestrian walkways that link all units and all service and recreational facilities. Walkways must be adequately surfaced and lit. A portion of the road surface may be reserved for walkways provided the roadway width is increased accordingly. Walkways must be a minimum width of 3 feet.

U. Signs

Signs and advertising devices are prohibited in a mobile home park except:

1. One (1) identifying sign at each entrance of the mobile home park no larger than 24 square feet which may be indirectly lit, but not flashing;
2. Directional and informational signs for the convenience of tenants and the public relative to parking, office, traffic movement, etc.,;
3. Real Estate "for sale" signs, provided that such signs that face a public road shall be no more than 10 square feet and shall be limited to two signs per mobile home park; or
4. Unit address signs.

The styles and locations of the identifying signs must not interfere with vehicle sight distance and must be constructed in accordance with the local sign regulations.

V. Storm Drainage

A storm drainage plan must be prepared by a professional engineer showing ditching, culverts, storm drains, easements, and other proposed improvements sufficient to accommodate a 25-year storm.

W. Storage

At least 300 cubic feet of enclosed tenant storage facilities must be conveniently provided near each mobile home lot for the storage of materials and equipment.

X. Utilities

The park must provide permanent electrical, water and sewage disposal connections to each mobile home in accordance with applicable state and local rules and regulations.

SECTION 10. ENFORCEMENT

A. Violations and Enforcement

The Selectmen, or the Code Enforcement Officer, upon a finding that any provision of this Ordinance or the conditions of any approval(s) is being violated, may institute legal proceedings to enjoin violations of this ordinance.

B. Penalties

Any person, firm or corporation being the owner or having control or use of any residential building constructed in violation of any of the provisions of this Ordinance, shall be fined in accordance with the penalty provisions of Title 30-A, M RSA Section 4452.

**AN ORDINANCE RELATING TO THE
ORGANIZATION, RULES, DUTIES AND POWERS OF THE BREMEN PLANNING BOARD**

WHEREAS, the BREMEN PLANNING BOARD was established pursuant to M.R.S.A. Constitution Article VIII-A and to Chapter 11, Section 10, M.R.S.A. 1917 by vote of the Town at a Special Town Meeting held on June 29, 1974; and

WHEREAS, a PLANNING BOARD of nine members was elected (three to serve for three years, three for two years and three for one year) by a secret ballot vote of the Town at the Annual Town Meeting held on March 22, 1975;

THEREFORE, the following ORGANIZATION, RULES, DUTIES AND POWERS OF THE BREMEN PLANNING BOARD shall be adopted by the Town of BREMEN.

1. ORGANIZATION AND RULES

A. The Board shall elect a chairman and secretary from among its members and create and fill such other offices as it may determine. The term of all officers shall be one year with eligibility for re-election.

B. Any question of whether a member shall be disqualified from voting on a particular matter shall be decided by a majority vote of the members except the member who is being challenged.

C. The chairman shall call at least one regular meeting of the board each month.

D. No meeting of the board shall be held without a quorum consisting of five members.

E. The Board shall adopt rules for transactions of business and the secretary shall keep a record of its resolutions, transactions, correspondence, findings and determinations. All such records shall be deemed public and may be inspected at reasonable times.

2. DUTIES AND POWERS

A. The Board shall adopt and revise as necessary a COMPREHENSIVE PLAN as defined by 30 M.R.S.A. 4961. The Plan shall include, but is not limited to, a statement of development goals and objectives for the Town of Bremen and recommendations for the protection of open space and land values within the Town.

B. The Board shall administer the SHORELAND ZONING ORDINANCE FOR THE TOWN OF BREMEN in compliance with 12 M.R.S.A. 4811-14, and shall assume all the administrative duties and powers previously held by the Selectmen with regard to that Ordinance.

C. The Board shall act as the MUNICIPAL REVIEWING AUTHORITY for all SUBDIVISIONS as defined by 30 M.R.S.A. 4956, and shall administer the present SUBDIVISION REGULATIONS in compliance with that State Law.

D. The Board shall perform such other duties and exercise such powers as may be provided by other Bremen Ordinances and the Laws of the State of Maine.

The Board shall also act in an advisory capacity to the Selectmen on all matters pertaining to the sound development of the Town's resources and public facilities.



P.O. Box 171

Medomak, Maine 04551

(207) 529-5945

SPECIAL TOWN MEETING AMENDMENT

Amendment reads:

To see if the Town will vote to reduce the membership of the Planning Board from nine to seven members, to continue terms of present members and to provide that at the 1991 annual Town meeting the Town shall elect three additional members for terms of three years, with the terms of members elected thereafter to be for three years from the expiration of the prior term.

Motion to be accepted as read and seconded. Voted and carried.

ENACTED: January 5, 1991

CERTIFIED BY: Sadie E. Ames

Sadie E. Ames
Town Clerk

ART 35. To see if the Town will vote to amend the Ordinance Relating to the Organization, Rules, Duties and Powers of the Bremen Planning Board

A. Repeal the Whereas clause and replace it to read as follows:


Whereas, a Planning Board has been duly established and its members duly elected by the Town; and

Whereas, there is a need for duly established rules of organization and procedure to regulate the Board's activities, now:

B. Amend Section 1. Organization and Rules, paragraph D to read as follows:

D. No meeting of the board shall be held without a quorum consisting of five four members.

ENACTED: March 30, 2002

CERTIFIED BY: 
Judith Mohr
Town Clerk



TOWN OF BREMEN
PO BOX 171, 208 WALDOBORO RD
BREMEN, MAINE 04551
(207) 529-5945 • FAX (207) 529-6302

SPECIAL TOWN MEETING AMENDMENT

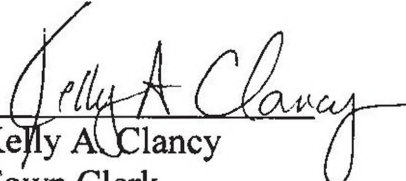
Amendment reads:

To see if the Town will vote to provide for two (2) alternate members for the Planning Board, to be elected at the next Annual Town Meeting and to serve for initial terms for one of three years and for the other of two years, with terms of alternate members elected thereafter to be three years from the expiration of the prior term. These alternate members must be voters of the Town. The Chair shall designate an alternate to act in the place of a regular members who is unable to act because of incapacity, absence or other reason satisfactory to the chair.

Motion to be accepted as read and seconded. Voted and carried.

ENACTED: November 17, 2016

CERTIFIED BY:


Kelly A. Clancy
Town Clerk

**TOWN OF BREMEN
GENERAL ELECTION
NOVEMBER 2, 2010**

**On November 2, 2010, the Town of Bremen passed the newly written
Recall Ordinance by a vote of Yes 274 and No 100.**

Enacted November 2, 2010

Certified by *Joanne S. McGregor*
Joanne S. McGregor
Town Clerk

Town of Bremen
RECALL of Officials

RECALL ORDINANCE

Section 1. Authority.

This Ordinance is enacted pursuant to the authority of the Constitution of Maine, Art. VIII, Part Second, and the provisions of Title 30-A of the Maine Revised Statutes.

Section 2. Applicability.

Any municipal elected official may be recalled and removed from office by the registered voters of the Municipality of Bremen as hereinafter provided, except that this provision shall not apply to an elected official who has six (6) months or less to serve in his or her term.

Section 3. Petition for Recall.

At least one-percent (1%) of the registered voters of the town may affirm and file with the Town Clerk an affidavit containing the name of the elected official whose removal is sought, together with a statement of the reasons why such removal is desired.

Upon receipt of such an affidavit, the Town Clerk shall prepare a sufficient number of petitions which shall be addressed to the Board of Selectmen, and contain the signature of the Town Clerk, his or her official seal, the date, and the name of the person whose removal is sought. In addition, the affidavit and statement of reasons for removal referred to above shall either be printed on such petitions or attached thereto.

Within five (5) days, the Town Clerk shall deliver to at least one of the voters signing that affidavit, copies of the petition blanks for such removal. The Town Clerk shall prepare an affidavit stating the names of the persons to whom the petition blanks were issued, the date of issuance, and the number of blanks so issued.

To mandate a recall vote, the recall petition must be returned and filed with the Town Clerk within fifteen (15) days after the issuing of the petition blanks. The petitions must be signed by of at least ten-percent (10%) of the number of registered voters. Each signature shall be accompanied by the voters printed name, place of residence, giving the street and number or other description sufficient to identify the location. Such signatures need not all be on one petition, but the circulator of every such petition shall execute the petition affidavit that each signature on the petition is the genuine signature of the person whose name it purports to be. All such recall petitions shall be filed with the Town Clerk as one instrument, with the endorsements thereon of the names and addresses of the persons filing the same.

Section 4. Verification of Recall Petition.

On the filing of the recall petitions, within the forty-five (45) day period for signing the petitions described in Section 3, the Town Clerk shall declare the petition closed and, within five (5) days thereafter, shall ascertain whether or not the petitions have been signed by the requisite number of registered voters. The Town Clerk shall attach his or her certificate, showing the results of such examination, to the petitions.

If the Town Clerk's certificate should show that the petitions are insufficient, he or she shall advise both the Board of Selectman, the person whose removal was sought and the persons who circulated the petitions of that fact and shall post a copy of that certificate in all places where Town meeting notices are posted. A finding of insufficiency shall not prejudice the filing of a new petition for the same purpose, except that such new petition shall not be filed within twelve (12) months from the date of the receipt of the Town Clerk's certificate by the Board of Selectmen.

Section 5. Calling of Recall Election.

If the Town Clerk's certificate should show that the petitions are sufficient, he or she shall submit them together with the Town Clerk's certification, to the Board of Selectmen at its next regular meeting following certification, and shall also notify the person whose removal is sought the persons who circulated the petitions. The Board of Selectmen shall, at that meeting, order an election to be held not less than thirty (30) nor more than sixty (60) days thereafter; except that, if a regular municipal election should occur within ninety (90) days after receipt of the certificate, the Board of Selectmen may, in its discretion, schedule the recall election for the same date as the regular municipal election.

The recall election shall be called and held as other elections under State Law except for the specific limitations imposed by this article.

Section 6. Form of Ballot.

Unless the person whose removal is sought shall have resigned within ten (10) days after the receipt by the Board of Selectmen of the Town Clerk's certificate, the form of the question to be submitted to the voters shall, as nearly as possible, be:

"Shall (name of official and his or her title) be recalled?"

Section 7. Count of Ballots.

In case a majority of those voting for and against the recall of any elected official shall vote in favor of recalling such official, he or she shall be thereby removed, and, in that event, the candidate to succeed such person for the balance of the unexpired term shall be determined as provided for in the case of a vacancy in the office.

If a majority of those voting should decline to recall a particular elected official, then no proceedings seeking the recall of that same person, shall be initiated under this article within twelve (12) months from the date of the election in which his or her recall was sought.

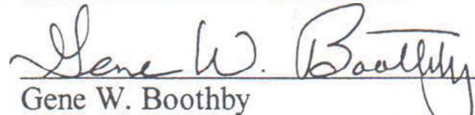
Section 8. Recount.

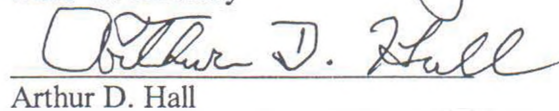
If a person who is recalled should either request a recount or dispute the election as permitted by law, then that person shall remain in office until the recount or dispute has been finally determined; and the provisions of Section 7 relating to vacancies shall be stayed. The provisions of 30-A MRSA section 2531-A or its successor shall apply.

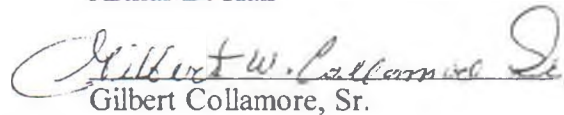
**Residential Growth Cap Ordinance of the
Town of Bremen, Maine**

Certified by the Selectmen of Bremen as a true copy of the
proposed ordinance this 1st day of March in the year 2001.

SELECTMEN OF BREMEN


Gene W. Boothby


Arthur D. Hall


Gilbert Collamore, Sr.

Attest:


Karen E. Rutan

TOWN CLERK OF BREMEN

ENACTED: MARCH 31, 2001
CERTIFIED COPY

TOWN OF BREMEN

RESIDENTIAL GROWTH CAP ORDINANCE

February 20, 2001

A. PURPOSE

1. The Town has recently experienced rapid growth and lacks local ordinances adequate to address such rapid development. It has recently enacted a moratorium because of concerns about growth and is in the process of preparing a new comprehensive plan. Continued rapid growth will place additional burdens upon municipal services such as schools, roads, public utilities and solid waste disposal. Although there is not a need for total prohibition of residential development, there does exist a need to limit residential development to a reasonable level while other issues related to residential growth are addressed, school expansion is considered, a solution to solid waste disposal is selected, the comprehensive plan is completed, and ordinances are refined.

2. The purpose of this Ordinance is to protect the health, safety and general welfare of Town residents by placing limitations on residential development and meeting the following needs.

a. To provide for the immediate housing needs of the Town by accommodating a fair share of population and housing growth.

b. To ensure fairness in the allocation of Building Permits.

c. To plan for continued residential population growth and the expansion of community services including, but not limited to, education, fire protection, road maintenance, public utilities, solid waste disposal and health services.

B. APPLICABILITY

This Ordinance shall apply to all new dwelling units, whether in dwellings, apartment buildings or mobile home parks, or to the conversion of seasonal dwelling units to year-round use. A new dwelling unit which fails to meet the requirements of this Ordinance shall not be constructed or placed within the Town. This ordinance does not apply to a "mother-in-law" apartment, which is a second dwelling unit on the same lot as a principle residential dwelling unit and where the "apartment" is physically dependent on or connected to the main residence, and when it is occupied by a family member who is dependent on care or services from the main residence's occupants. The "mother-in-law" apartment may not be sold, leased, rented or occupied by a non-family member or a non-dependent member.

C. ADMINISTRATION

1. Maximum Rate of House Building.

The Town's housing expansion shall be guided so that the actual increase in dwelling units does not exceed the average rate of expansion of the total year-round housing stock within the Town which expanded at the average rate of 6.33 dwellings per year during the 1991-1999 period. Applying this rate of growth, the maximum annual increase in dwelling units, including winterization of seasonal dwellings, is set at eight (8) for each year.

2. Application Procedure

- a. All Growth Permit applications shall be submitted in person to the Town Clerk during normal office hours on the form designated Growth Permit Application. A Growth Permit application may not be accepted by mail.
- b. The Town Clerk shall indicate on the application form the date and time the Growth Permit application was received and provide the applicant with a receipt.
- c. The application for a Growth Permit shall be accompanied by a Plumbing Permit application.
- d. The Code Enforcement Officer (CEO) shall ensure that the Growth Permit application forms are complete before issuing a Growth Permit. An incomplete application is not valid.
- e. The CEO shall administer the issuance procedure.
- f. A separate application shall be required for each dwelling unit.
- g. A Building Permit may be issued upon the approval of the Growth Permit provided the proposed structure conforms to all other applicable Ordinances.

3. Issuance Procedure

- a. Growth permit application may not be accepted by the Town Clerk until ten (10) working days after the date of adoption of this Ordinance.
- b. Growth Permits shall be available on the first-come, first-served basis.
- c. Applications for Growth Permits shall be filed with the Town Clerk. The CEO shall issue Growth Permits for all applications if they do not outnumber the supply of Growth Permits for that month based upon the following schedule.
 - (1) If applications exceed supply, permits shall be issued on the basis of the order valid applications were received by the Town Clerk. Those on the list who do not get a permit shall remain on the list. The oldest application on the list shall be granted a permit first.
 - (2) No person may be on the application list for more than one (1) permit at any one time.
- d. No more than one (1) Growth Permit may be issued during any single year to any one person.
- e. Corporations in which two (2) or more directors or shareholders of ten percent (10%) or more, who are the same individuals (or their spouses) shall be treated as the same corporation for the purposes of this Ordinance. Any person or corporation which is a partner in a partnership shall also be considered the same person as the partnership.
- f. At the end of the calendar, any unissued Growth Permits expire.

4. Expiration of Permits

a. A Growth Permit expires nine (9) months from the date of issue, unless the foundation is completed or conversion has substantially begun. The time period may be extended for two (2) additional months by the CEO based upon inclement weather conditions or upon receipt of evidence that the applicant's intentions to build are bona fide and that the construction delay is due to financial or technical problems.

b. An expired permit may be reissued in the year in which it expires.

5. Transferability - Growth Permits are not transferable. They shall be valid for construction on the lot and by the applicant specified on the application.

6. Government funding

Dwelling units specifically funded at more than ten percent (10%) by the local, state or federal government or their agencies for the use of the elderly, handicapped or economically disadvantaged, including those financed under Sections 202 and 8 of the Housing and Community Development Act of 1974, are expressly excluded from this Ordinance.

D. VIOLATIONS

A violation of this Ordinance shall exist when any person, engages in any construction activity directly related to the erection or placement of a dwelling unit, or the conversion of a seasonal dwelling upon any land within the Town without first having obtained a Growth Permit, or when any person sells, leases, rents or occupies such a dwelling unit. The penalties shall be as provided by statute 30-A MRSA §4452.

E. DEFINITIONS

Unless specifically defined below, words and phrases used in this ordinance shall have the same meaning as they have at common law and to give this Ordinance its most reasonable application. Words used in the present tense include the future, the singular number includes the plural, and the plural number includes the singular. The word "may" is permissive; "shall" is mandatory and not discretionary. In the event that a word defined in this chapter is defined in some other way in another specific chapter, the specific chapter definition shall apply only in that chapter, with the definition set forth in this chapter applying to all other chapters in this ordinance.

Apartment Building - Three or more dwelling units located in a single structure, with each arranged, intended, or designed to be occupied, by a family living independently of the others.

Condominium - Three or more dwelling units located in a single structure, with each arranged, intended or designed to be occupied by a family, living independently of the others, where the individual units are separately owned.

Dwelling Unit - As defined by the Subdivision Ordinance.

Growth Permit - A permit to allow the establishment of a principle year-round residence in a new or existing dwelling unit.

** All amended ordinance dated 3/30/02*

Seasonal Dwelling - A dwelling unit which is not adapted to year-round habitation due to the nature of its construction such as the absence of sufficient insulation, heating system, water supply or sewage disposal system.

F. SEVERABILITY

The invalidity of any section or provision of this ordinance shall not be held to invalidate any other section or provision of this ordinance.

G. EFFECTIVE DATE AND TRANSITION

This Ordinance shall take effect on enactment, provided that the number of growth permits issued during year 2001 shall be twelve (12).

ART. 37 To see if the Town will vote to amend the Residential Growth Cap Ordinance as follows:

A. In Section B, the first sentence is amended to read as follows:

This ordinance shall apply to all new dwelling units, whether in dwellings, apartment buildings, condominiums, or mobile home parks, or to the conversion of seasonal dwelling units to year-round use.

B. In Section C, paragraph 2, subparagraph a, the first sentence is amended to read as follows:

a. All Growth Permit applications shall be submitted in person by the owner, an authorized representative or a person who has a vested right to purchase the lot at the time of the permit application, to the Town Clerk during normal office hours on the form designated Growth permit Application. Only one application may be accepted for each lot. A Growth permit application may not be accepted by mail.

C. In Section C, paragraph 3, subparagraph c., the second sentence is amended to read as follows:

The CEO shall issue Growth Permits for all applications if they do not outnumber the supply of Growth permits ~~for that month~~ based upon the following schedule.

D. In Section C, paragraph 3, subparagraph f, is amended to read as follows:

f. At the end of the calendar year, any unissued Growth Permits expire.

E. In Section C, paragraph 4, subparagraph a is amended to read as follows:

A. A Growth Permit expires ~~nine (9)~~ six (6) months from the date of issue, unless the foundation is completed or conversion has substantially begun. The time period may be extended for ~~two (2)~~ four (4) additional months by the CEO based upon inclement weather conditions or upon receipt of evidence that the applicant's intentions to build are bona fide and that the construction delay is due to financial or technical problems.

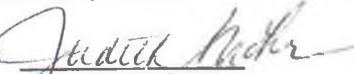
F. In Section C, paragraph 4, subparagraph b is amended to read as follows:

b. An expired permit may be reissued to another applicant in the year in which it expires.

G. In Section E, the definition for "Growth Permit" is amended to read as follows:

Growth Permit – A permit to all ^{new} a new dwelling unit, including apartments or condominiums the establishment of a principle year round residence in a new or existing dwelling unit, structure, or to allow the conversion of a seasonal dwelling into a year-round residence.

ENACTED: March 30, 2002

CERTIFIED BY: 
Judith Mohr
Town Clerk



TOWN OF BREMEN

PO Box 171
BREMEN, MAINE 04551

(207) 529-5945 • FAX (207) 529-6302

A TRUE RECORD

ATTEST:

Judith F. Mohr
Judith F. Mohr
Town Clerk April 2, 2005

AMENDMENTS TO THE RESIDENTIAL GROWTH CAP ORDINANCE

Enacted: April 2, 2005

Amend the Residential Growth Cap Ordinance in Section A(1) by deleting and replacing this section with the following:

The Town of Bremen, in March 2001, enacted a Residential Growth Cap Ordinance because the Town was experiencing rapid growth which threatened to significantly alter the rural character of the town because of the rapid development of new residential dwellings and the conversion of seasonal dwellings to year-round dwellings. This Ordinance is a "Rate of Growth Ordinance" as defined in Maine law at 30-A M.R.S.A. 43401(13-A) and as authorized at 30-A M.R.S.A. 4360. As required by these State laws the Town has reviewed the Growth Rate Ordinance and has determined that because of the rate of growth with residential dwelling units, both new and seasonal conversions, and because of the new Comprehensive Plan adopted by voters in Bremen in November 2004, it is still necessary for the town to continue this Growth Rate Ordinance to meet current conditions. The character of the entire Town is rural and this Rate of Growth Ordinance and its limits on the issuance of building permits applies town-wide in order to protect that rural character.

Amend the Residential Growth Cap Ordinance, Section C(4)(a), by deleting and replacing it with the following:

a. Growth Permits expire six (6) months from the date of issuance if the holder of the Permit has not obtained a Building Permit under the Town's Building Permit Ordinance. If a Building Permit has been obtained within the six-month time limit, both the Building Permit and the Growth Permit shall expire within one year of the issuance of the Building Permit if construction is not substantially started within one year of the issuance of the Building Permit. "Substantial Start" means the pouring of the foundation, frost wall or slab or completion of the first floor, exterior walls and roof framing or locating a manufactured dwelling or a modular portion of a manufactured dwelling on the lot. These time periods may be extended for up to, but not more than two (2) additional months by the Code Enforcement officer if the "substantial start" was reasonably delayed because of weather conditions, because of financial and/or technical problems, because of health problems of the permit holder or immediate family members, or because circumstances in the judgement of the CEO, which were beyond the control of the permit holder.

SHELLFISH CONSERVATION ORDINANCE

Town of Bremen

1. Authority

This Ordinance is enacted in accordance with 1 M.R.S.A. Section 6671.

2. Purpose

To establish a shellfish conservation program for the Town which will ensure the protection and optimum utilization of shellfish resources within its limits. These goals will be achieved by means, which may include:

- a. Licensing.
- b. Limiting the number of shellfish harvesters.
- c. Restricting the time and area where harvesting is permitted.
- d. Limiting the minimum size and/or maximum of shellfish taken.
- e. Limiting the amount of shellfish taken daily by a harvester.
- f. Recommending a conservation program.

3. Definitions

- a. Board – “Board” means the Town Board of Selectmen.
- b. Commissioner – “Commissioner” means the Commissioner of the Department of Marine Resources.
- c. Committee – “Committee” means the Town Shellfish Conservation Committee.
- d. Department – “Department” means the Department of Marine Resources.
- e. Junior Nonresident – “Junior Nonresident” means a nonresident between 10 and 18 years of age.
- f. Junior Resident – “Junior Resident” means a resident between 10 and 18 years of age.

- g. Lot – “Lot” means the total number of soft shell clams in any bulk pile. Where soft shell clams are in a box, barrel, or other container, the contents of each box, barrel or other container constitutes a separate lot.
- h. Nonresident – “Nonresident” means anyone not qualified as a resident.
- i. Possess – “Possess” means dig, take, harvest, ship, transport, hold buy and sell retail and wholesale shellfish.
- j. Resident – “Resident” means a person who has physically resided at a fixed, permanent and principal home in this Town for at least 180 days immediately prior to the time the claim of such residence is made.
- k. Shellfish – “Shellfish,” “clams,” and “intertidal shellfish resources” mean soft shell clams (*Mya arenaria*).
- l. Shellfish Conservation Work – “Shellfish Conservation Work” shall be broadly defined and shall include, but is not limited to, such activities as reseedling, shore cleanup, pollution abatement, predator eradication, surveying and information gathering, testing and sampling and any other activity that the Committee deems as fostering the general purposes of this Ordinance.
- m. Town – “Town” means Bremen, Maine.
- n. Warden – “Warden” means the Town Municipal Shellfish Warden.

4. Shellfish Conservation Committee

The Committee shall consist of five (5) members to be appointed by the Board for terms of three years, except the initial Board appointments which shall be for 1, 2, or 3 years. The Board shall appoint a person to fill a vacancy for the unexpired term if a vacancy occurs.

- a. Organization
Annually, the Committee shall choose a chairman and secretary.
- b. Absences
Any Committee member who has more than three (3) unexcused absences from Committee meetings in a year may be removed and replaced with a new member by the Board.

c. **Quorum**

The Committee shall only vote if there is a quorum present and voting. A quorum requires three (3) members.

d. **Responsibilities**

The Committee's responsibilities shall include:

- (1) Submitting annually, in consultation with the Department, to the Board proposals for the number and fees for shellfish harvest licenses to be issued;
- (2) Reviewing annually the status of the resource using the results of clam flat, harvester or dealer surveys and other sources of information and preparing in consultation with and subject to the approval of the Department, a plan for implementing conservation measures;
- (3) Submitting to the Board proposals for the expenditures of funds for the purpose of shellfish conservation;
- (4) Reviewing this Ordinance and making recommendations for amendments;
- (5) Securing and maintaining records of shellfish harvest from the Town's managed shellfish areas and closed areas that are conditionally opened by the Department;
- (6) Recommending conservation closures and openings to the Board in consultation with the area biologists of the Department;
- (7) Submitting an annual report to the Town and the Department covering the above topics and all other Committee activities;
- (8) Working with the officials of the Town and State departments and agencies to improve water quality which will result in more shellfish-producing areas to be opened for harvesting;
- (9) Recommending and implementing predator control projects; and
- (10) Recommending and implementing a Shellfish Conservation Program.

- (11) Setting a lottery time and date and a lottery application deadline, and any other rules necessary to hold a lottery of unissued licenses.

5. Licensing

A Municipal Shellfish Harvesting License is required for anyone ten (10) years or older to harvest shellfish within the jurisdiction of this Ordinance. It is unlawful for any person to dig or take shellfish from the shores and flats of this municipality without having a current license issued by this municipality as provided by this Ordinance. Additionally, a commercial harvester must also have a valid State Commercial Shellfish license issued by the Department prior to harvesting shellfish for commercial purposes. It shall be unlawful for a harvester who holds a State Commercial Shellfish License or whose right to harvest shellfish has been suspended by the State to obtain or hold a Town Recreational License.

a. Designation, Scope and Qualifications

(1) Resident Commercial Shellfish License:

The license is available to residents of the Town and entitles the holder to dig and take any amount of shellfish from the shores and flats of this Town.

(2) Nonresident Commercial Shellfish License:

The license is available to nonresidents of this Town and entitles the holder to dig and take any amount of shellfish from the shores and flats of this Town.

(3) Junior Resident Commercial Shellfish License:

The license is available to junior residents of the Town and entitles the holder to dig and take any amount of shellfish from the shores and flats of this Town and reciprocating municipalities. Junior licenses will be issued yearly to any junior (10-18) enrolled in school. A junior license holder will be entered into the appropriate class at age 19.

(4) Junior Nonresident Commercial Shellfish License:

The license is available to junior nonresidents and entitles the holder to dig and take any amount of shellfish from the shores and flats of this Town and reciprocating municipalities. Junior licenses will be issued yearly to any

junior (10-18) enrolled in school. A junior license holder will be entered into the appropriate class at age 19.

(5) Resident Recreational Shellfish License:

The license is available to residents and real estate taxpayers of this Town who do not obtain or hold a valid State Commercial Shellfish License and entitles the holder to dig and take no more than one peck of shellfish from the shores and flats of this Town, in any one day for the use of licensee and licensee's immediate family.

(6) Nonresident Recreational Shellfish License:

The license is available to any person not a resident of this Town who does not obtain or hold a valid State Commercial Shellfish License and entitles the holder to dig and take not more than one peck of shellfish from the shores and flats of this Town, in any one day for the use of licensee and licensee's immediate family.

b. License Must be Signed

The licensee must sign the license to make it valid. The license must be in the licensee's possession when engaged in harvesting. By signing the license, the harvester acknowledges that he/she must submit to inspection by the Warden.

c. Application Process

Any person may apply to the Town Clerk for the license required by this Ordinance on forms provided by the Town. Notice of the number of licenses to be issued and the procedure for application shall be published in a trade or industry publication, or in the newspaper or combination of newspapers with general circulation, which the Board considers effective in reaching persons affected, not less than 10 days prior to the initial sale date and shall be posted in the municipal offices. A copy of the notice shall be provided to the Commissioner.

(1) Contents of Application:

The application must be in the form of an affidavit and must contain the applicant's name, current residential address, birth date, height, weight, and signature.

(2) Misrepresentation:

Any person who gives false information on a license application shall cause that license application to become invalid and void. If a license is issued as a result of false information, that license shall become invalid and void.

(3) Evidence:

Proof of identity and residency may be required to obtain a license.

(4) Receiving:

New applicants for a shellfish license must obtain the shellfish license in person. Previous year license holders may delegate an individual to purchase their license if they are unable to do so on the issuing dates. A written authorization must accompany the delegated individual. An application and the license must be signed in person by the license holder before the license becomes valid.

(5) Transfers:

Shellfish licenses cannot be transferred or resold.

d. Fees

(1) Board Action:

The Board shall establish shellfish license fees, conservation program participation fee reductions and the hours of activity for the reductions, under such terms and conditions as they deem advisable, after notice and public hearing. Before setting fees, the Board will consider the recommendation of the Committee.

(2) Use:

Fees received for shellfish licensing shall be used by the Town for shellfish management, conservation and enforcement.

(3) Payment:

Fees must be paid in full when a license is issued.

(4) Notice:

The fees for the licenses are as stated on the reverse side of the application for the respective license.

6. Conservation Time

A current commercial shellfish license holder may volunteer to perform shellfish conservation work in exchange for a reduction in the license fee. The fee reduction and qualifying hours shall be as set by the Board.

Work performed must be approved by the Committee.

7. Annual License Allocations

Clam resources vary in density and size distribution from year to year and over the limited soft-shell clam producing areas of the Town. It is essential that the Town carefully manage its shellfish resources. The Town, in consultation with the Department area biologist, shall determine whether limiting commercial or recreational shellfish licenses, harvest amounts or hours of harvesting are appropriate shellfish management options for the following year.

a. Annual Report

Annually, the Committee shall report its findings and recommendations for allocating the number of commercial and recreational licenses, or limits on harvest amounts or hours of harvesting to apply in the following license year to the Commissioner for concurrence.

b. Notification

After receiving approval of the license allocations or limits on harvest amounts or hours of harvesting from the Commissioner and at least thirty (30) days prior to the date for issuing the first licenses, the Town Clerk shall notify the Committee in writing of the number and allocation of shellfish licenses to be issued, or limits on harvest amounts or hours of harvesting.

c. Publication

The Town Clerk shall prepare a list of the persons eligible for renewal licenses. The public notification of license availability shall include a statement that the list is posted at the Town Office.

d. Inadequate Number

If the number of applicants exceeds the available number of licenses in that class, preference will be given to those individuals who have held a Town Commercial Shellfish License for the longest consecutive period of time.

e. Nonresident Allocation

A number equivalent to no less than ten percent of the total number of Resident Commercial Shellfish Licenses shall be issued to nonresident commercial applicants.

f. Issue Date

Starting on July 1st or the next business day the Town Clerk shall issue renewal licenses. The renewal licenses must be purchased within twelve (12) Town Office business days of first issuance. If licenses in a class remain unpurchased, the Town Clerk shall issue those remaining licenses by lottery.

g. Unissued Licenses

If license remains unpurchased after thirty (30) days from initial issuance, it shall be made available to persons who qualify for that class of license by lottery, at the approved fee. If a license still remains unpurchased after ninety (90) days from initial issuance, it shall be made available to any person by lottery, at the approved fee for that license class. Applications for Shellfish Lottery shall be accepted up to the end of business the day before the lottery.

h. Recreational Licenses

The Town Clerk or the Town Clerk's designee shall begin to issue resident and nonresident Recreational Shellfish Licenses as allocated, starting on July 1st or the next business day.

8. Open License Sales

If the Board determines, in consultation with the Committee, that limiting shellfish licenses is not an appropriate shellfish management option for one or more license categories for the following year:

The Town Clerk shall issue licenses as allocated. On the first day of license sales, the total number of Nonresident Commercial Shellfish Licenses shall be issued in accordance with Department Regulations, Chapter 7.4 Section 1. Thereafter, nonresident licenses will be issued in accordance with the 10% rule as described in 12 M.R.S.A. § 6671(3-E) and Department Regulations, Chapter 7.4 Section 2, Table 1.

9. License Expiration Date

Each license issued under authority of this Ordinance shall expire at midnight on the thirty-first day of July of the following year.

10. Violations, Suspensions of Licenses, and Fines

It is unlawful for any person to dig or take shellfish from the shores and flats of this Town without having a current license issued by this Town as provided by this Ordinance.

Additionally, a Commercial Shellfish Harvester must also have a valid State Commercial Shellfish License issued by the Department prior to harvesting shellfish for commercial purposes.

It shall be unlawful for a harvester who holds a State Commercial Shellfish License or whose right to harvest shellfish has been suspended by the State to obtain or hold a Town Recreational License.

a. Punishment

Any person who violates this Ordinance shall be punished as provided by 12 M.R.S.A. Section 6671 and/or 6681.

b. Suspension

Any shellfish licensee having two or more convictions for a violation of this Ordinance or any other municipal ordinance shall have his shellfish license automatically suspended for a period of thirty (30) days.

c. Effective Date

The suspension shall be effective from the date of mailing of a Notice of Suspension by the Town Clerk to the licensee.

d. Appeal

Any licensee whose shellfish license has automatically been suspended pursuant to this Ordinance shall be entitled to a hearing before the Committee upon the filing of a written Request for Hearing with the Town Clerk within thirty (30) days following the effective date of suspension. The licensee may appeal the decision of the Committee to the Board of Appeals by filing a written Request for Appeal with the Town Clerk within seven (7) days of the decision of the Committee. Thereafter, the licensee may appeal to State Courts as provided by law or rule.

e. State Suspension

Any person who has had their State Commercial Shellfish License or their right to obtain a license suspended by the Department for any reason shall have their Town Shellfish License automatically suspended until reinstated by the Department.

f. Violation

It shall be unlawful to engage in the activity of harvesting shellfish while the right to do so is under suspension. If an individual is caught harvesting shellfish while under suspension, he/she will be charged as if he/she is harvesting shellfish without a Town license.

g. Assistance Prohibited

A Commercial Shellfish License holder may not be accompanied by a recreational harvester with the intent of assisting in the harvesting and taking of shellfish.

11. Opening and Closing of Flats

The Board, upon the approval of the Commissioner of Marine Resources, may open and close areas for shellfish harvest. Upon recommendations of the Shellfish Conservation Committee and concurrence of the Department of Marine Resources area biologist that the status of shellfish resource and other factors bearing on sound management indicate that an area should be opened or closed, the Board may call a public hearing and shall send a copy of the notice to the Department of Marine Resources. The decision of the Board made after the hearing shall be based on findings of fact. Any area within the Town which is closed by the Department of Marine Resources to the harvesting of shellfish shall be considered a Town closure. The municipality will provide notification to the public of conservation closings/openings in accordance with DMR Regulations

Chapter 7.50(1)(c). This section requires a 5-day notice of openings and closings.

a. Hearing

The decision of the Board made after the hearing shall be based on findings of fact.

b. Notice

The Town will provide notification to the public of conservation closures/openings in accordance with Department Regulations, Chapter 7.50(1)(c). This section requires a 5-day notice of openings and closings.

c. Violation

It shall be unlawful for any person to harvest, take or possess shellfish from any closed area in the Town. This violation is punishable under 12 M.R.S.A. Section 6671.

12. Minimum Legal Size of Soft Shell Clams

It is unlawful for any person to possess soft shell clams within the Town which are less than two (2) inches in the longest diameter except as provided by Subsection A of this section.

a. Tolerance

Any person may possess soft shell clams that are less than two (2) inches if they comprise less than 10% of any lot. The tolerance shall be determined by count of not less than one peck nor more than four pecks taken at random from various parts of the lot or by a count of the entire lot if it contains less than one peck.

b. Violation

Whoever violates any provision of this section shall be punished as provided by 12 M.R.S.A. Section 6681.

13. Penalty

A person who violates this Ordinance shall be punished as provided by 12 M.R.S.A. Section 6671 (10), (10A).

14. Effective Date

This Ordinance, after having been approved by the Commissioner, shall become effective after its adoption by the Town provided a certified copy of the Ordinance is filed with the Commissioner within twenty (20) days of adoption.

15. Separability

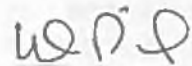
If any section, subsection, sentence or part of this Ordinance is for any reason held to be invalid or unconstitutional, such decisions shall not affect the validity of the remaining portions of this Ordinance.

16. Repeal

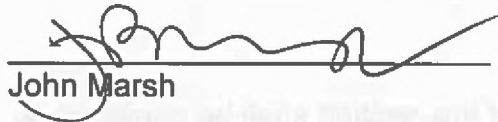
Any ordinance regulating the harvesting or conservation of shellfish in the Town and any provisions of any other Town ordinance, which is inconsistent with this Ordinance, is hereby repealed.

Approved by Town Meeting of August 17, 2017.

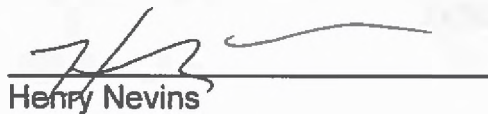
Certification of Municipal Officers



Wendy Pieh, Chairman



John Marsh



Henry Nevins

A true copy.

Attest:

Cynthia A. Hasty
Town Clerk of Bremen
Cynthia A. Hasty



TOWN OF BREMEN

PO Box 171

BREMEN, MAINE 04551

(207) 529-5945 • Fax (207) 529-6302

SHORELAND ZONING ORDINANCE

FOR THE

TOWN OF BREMEN, MAINE

Enacted: **March 29, 2008**

Certified by:

James Grobe
Name

Town Clerk
Title

**Shoreland Zoning Ordinance
for the Town of Bremen, Maine
as Amended March 29, 2008**

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Shoreland Zoning Ordinance for the Town of Bremen, Maine

1. Purposes. The purposes of this Ordinance are to further the maintenance of safe and healthful conditions; to prevent and control water pollution; to protect fish spawning grounds, aquatic life, bird and other wildlife habitat; to protect buildings and lands from flooding and accelerated erosion; to protect archaeological and historic resources; to protect commercial fishing and maritime industries; to protect freshwater and coastal wetlands; to control building sites, placement of structures and land uses; to conserve shore cover, and visual as well as actual points of access to inland and coastal waters; to conserve natural beauty and open space; and to anticipate and respond to the impacts of development in shoreland areas.

2. Authority. This Ordinance has been prepared in accordance with the provisions of Title 38 sections 435-449 of the Maine Revised Statutes Annotated (M.R.S.A.).

3. Applicability. This Ordinance applies to all land areas within 250 feet, horizontal distance, of the

- normal high-water line of any great pond or river,
- upland edge of a coastal wetland, including all areas affected by tidal action, or
- upland edge of a freshwater wetland,

and all land areas within 75 feet, horizontal distance, of the normal high-water line of a stream.

This Ordinance also applies to any structure built on, over or abutting a dock, wharf or pier, or other structure extending or located below the normal high-water line of a water body or within a wetland.

4. Effective Date

A. Effective Date of Ordinance and Ordinance Amendments. This Ordinance, which was adopted by the municipal legislative body on November 17, 1993, shall not be effective unless approved by the Commissioner of the Department of Environmental Protection. A certified copy of the Ordinance, as Amended, attested and signed by the Municipal Clerk, shall be forwarded to the Commissioner for approval. If the Commissioner fails to act on this Ordinance Amendment, within forty-five (45) days of his/her receipt of the Ordinance Amendment, it shall be automatically approved.

Any application for a permit submitted to the municipality within the forty-five (45) day period shall be governed by the terms of this Ordinance as Amended, if the Ordinance Amendment is approved by the Commissioner.

B. Section 15(O). Section 15(O) in its entirety is repealed on the statutory date established under 38 M.R.S.A. section 438-A(5), at which time Statewide Timber Harvesting Standards become effective and the Bureau of Forestry will administer and enforce those standards within the Town of Bremen. Also repealed on that effective date are (1) Section 14, *Land Uses in the Shoreland Zone*, Item 3 (forest management activities except for timber harvesting and land management roads), Item 4 (timber harvesting), and Item 27 (land management roads) of the Table; and (2) All definitions in Section 17 pertaining to timber harvesting and forest management activities, including the terms: Cross-sectional area, DBH, Disruption of shoreline integrity, Forest management activities, Forest stand, Harvest area, Land management road, Licensed forester, Residual basal area, Residual stand, Skid road or skid trail, Slash, Timber harvesting, Timber harvesting and related activities, and Wind firm.

5. Availability. A certified copy of this Ordinance shall be filed with the Town Clerk and shall be accessible to any member of the public. Copies shall be made available to the public at reasonable cost at the expense of the person making the request. Notice of availability of this Ordinance shall be posted.

6. Severability. Should any section or provision of this Ordinance be declared by the courts to be invalid, such decision shall not invalidate any other section or provision of the Ordinance.

7. Conflicts with Other Ordinances. Whenever a provision of this Ordinance conflicts with or is inconsistent with another provision of this Ordinance or of any other ordinance, regulation or statute administered by the municipality, the more restrictive provision shall control.

8. Amendments. This Ordinance may be amended by majority vote of the legislative body. Copies of amendments, attested and signed by the Town Clerk, shall be submitted to the Commissioner of the Department of Environmental Protection following adoption by the municipal legislative body and shall not be effective unless approved by the Commissioner. If the Commissioner fails to act on any amendment within forty-five (45) days of his/her receipt of the amendment, the amendment is automatically approved. Any application for a permit submitted to the municipality within the forty-five (45) day period shall be governed by the terms of the amendment, if such amendment is approved by the Commissioner.

9. Districts and Zoning Map

A. Official Shoreland Zoning Map. The areas to which this Ordinance is applicable are hereby divided into the following districts as shown on the Official Shoreland Zoning Map which is made a part of this Ordinance:

- (1) Resource Protection
- (2) Residential
- (3) Commercial Fisheries/Maritime Activities
- (4) Stream Protection

B. Scale of Map. The Official Shoreland Zoning Map shall be drawn at a scale of not less than: 1 inch = 2000 feet. District boundaries shall be clearly delineated and a legend indicating the symbols for each district shall be placed on the map.

C. Certification of Official Shoreland Zoning Map. The Official Shoreland Zoning Map shall be certified by the attested signature of the Town Clerk and shall be located in the town office.

D. Changes to the Official Shoreland Zoning Map. If amendments, in accordance with Section 8, are made in the district boundaries or other matter portrayed on the Official Shoreland Zoning Map, such changes shall be made on the Official Shoreland Zoning Map within thirty (30) days after the amendment has been approved by the Commissioner of the Department of Environmental Protection.

10. Interpretation of District Boundaries. Unless otherwise set forth on the Official Shoreland Zoning Map, district boundary lines are property lines, the centerlines of streets, roads and rights of way, and the boundaries of the shoreland area as defined herein. Where uncertainty exists as to the exact location of district boundary lines, the Board of Appeals shall be the final authority as to location.

11. Land Use Requirements. Except as hereinafter specified, no building, structure or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected,

constructed, expanded, moved, or altered and no new lot shall be created except in conformity with all of the regulations herein specified for the district in which it is located, unless a variance is granted.

12. Non-conformance.

A. Purpose. It is the intent of this Ordinance to promote land use conformities, except that non-conforming conditions that existed before the effective date of this Ordinance or amendments thereto shall be allowed to continue, subject to the requirements set forth in Section 12. Except as otherwise provided in this Ordinance, a non-conforming condition shall not be permitted to become more non-conforming.

B. General

- (1) **Transfer of Ownership.** Non-conforming structures, lots, and uses may be transferred, and the new owner may continue the non-conforming use or continue to use the non-conforming structure or lot, subject to the provisions of this Ordinance.
- (2) **Repair and Maintenance.** This Ordinance allows, without a permit, the normal upkeep and maintenance of non-conforming uses and structures including repairs or renovations that do not involve expansion of the non-conforming use or structure, and such other changes in a non-conforming use or structure as federal, state, or local building and safety codes may require.

C. Non-conforming Structures

- (1) **Expansions.** A non-conforming structure may be added to or expanded after obtaining a permit from the Planning Board, if such addition or expansion does not increase the non-conformity of the structure, and is in accordance with subparagraphs (a), and (b) below.
 - (a) **Legally existing non-conforming principal and accessory structures that do not meet the water body, tributary stream, or wetland setback requirements may be expanded or altered as follows, as long as all other applicable standards contained in this Ordinance are met.**
 - i. Expansion of any portion of a structure within 25 feet, horizontal distance, of the normal high-water line of a water body, tributary stream, or upland edge of a wetland is prohibited, even if the expansion will not increase nonconformity with the water body, tributary stream or wetland setback requirement.
 - ii. Expansion of an accessory structure that is located closer to the normal high-water line of a water body, tributary stream, or upland edge of a wetland than the principal structure is prohibited, even if the expansion will not increase nonconformity with the water body or wetland setback requirement.
 - iii. For structures located less than 75 feet, horizontal distance, from the normal high-water line of a water body, tributary stream, or upland edge of a wetland, the maximum combined total floor area for all portions of those structures within that 75-foot distance is 1,000 square feet, and the maximum height of any portion of a structure that is within 75 feet, horizontal distance, of a water body, tributary stream or upland edge of a wetland is 20 feet or the height of the existing structure, whichever is greater.
 - iv. For structures located less than 100 feet, horizontal distance, from the normal high-water line of a water body or upland edge of a wetland, the maximum combined total floor

area for all portions of those structures within that 100-foot distance is 1,500 square feet, and the maximum height of any portion of a structure that is within 100 feet, horizontal distance, of water body or upland edge of a wetland is 25 feet or the height of the existing structure, whichever is greater, except that any portion of those structures located less than 75 feet, horizontal distance from the normal high-water line of a water body, tributary stream, or the upland edge of a wetland must meet the floor area and height limits of division (iii).

v. For structures located less than 150 feet, horizontal distance, from the normal high-water line of a water body or upland edge of a wetland, the maximum combined total floor area for all portions of those structures within that 150-foot distance is 2,000 square feet, and the maximum height of any portion of a structure that is within 150 feet, horizontal distance, of water body or upland edge of a wetland is 30 feet or the height of the existing structure, whichever is greater, except that any portion of those structures located less than 100 feet, horizontal distance from the normal high-water line of a water body or the upland edge of a wetland must meet the floor area and height limits of division (iv) and any portion of those structures located less than 75 feet, horizontal distance from the normal high-water line of a water body, tributary stream, or the upland edge of a wetland must meet the floor area and height limits of division (iii).

For the purposes of Section 12(C)(1)(a), a basement is not counted toward floor area.

- (b) Whenever a new, enlarged, or replacement foundation is constructed under a non-conforming structure, the structure and new foundation must be placed such that the setback requirement is met to the greatest practical extent as determined by the Planning Board, basing its decision on the criteria specified in Section 12(C)(2) Relocation, below. If the completed foundation does not extend beyond the exterior dimensions of the structure and the foundation does not cause the structure to be elevated by more than three (3) additional feet, as measured from the uphill side of the structure, it shall not be considered to be an expansion of the structure.

(2) Relocation. A non-conforming structure may be relocated within the boundaries of the parcel on which the structure is located provided that the site of relocation conforms to all setback requirements to the greatest practical extent as determined by the Planning Board, and provided that the applicant demonstrates that the present subsurface sewage disposal system meets the requirements of State law and the State of Maine Subsurface Wastewater Disposal Rules (Rules), or that a new system can be installed in compliance with the law and said Rules. In no case shall a structure be relocated in a manner that causes the structure to be more non-conforming.

In determining whether the building relocation meets the setback to the greatest practical extent, the Planning Board shall consider the size of the lot, the slope of the land, the potential for soil erosion, the location of other structures on the property and on adjacent properties, the location of the septic system and other on-site soils suitable for septic systems, and the type and amount of vegetation to be removed to accomplish the relocation. When it is necessary to remove vegetation within the water or wetland setback area in order to relocate a structure, the Planning Board shall require replanting of native vegetation to compensate for the destroyed vegetation. In addition, the area from which the relocated structure was removed must be replanted with vegetation. Replanting shall be required as follows:

Trees removed in order to relocate a structure must be replanted with at least one native tree, three (3) feet in height, for every tree removed. If more than five trees are planted, no one species of tree shall make up more than 50% of the number of trees planted. Replaced trees must be planted no further from the water or wetland than the trees that were removed.

Other woody and herbaceous vegetation, and ground cover, that are removed or destroyed in order to relocate a structure must be re-established. An area at least the same size as the area where vegetation and/or ground cover was disturbed, damaged, or removed must be reestablished within the setback area. The vegetation and/or ground cover must consist of similar native vegetation and/or ground cover that was disturbed, destroyed or removed.

- (b) Where feasible, when a structure is relocated on a parcel the original location of the structure shall be replanted with vegetation which may consist of grasses, shrubs, trees, or a combination thereof.
- (3) Reconstruction or Replacement. Any non-conforming structure which is located less than the required setback from a water body, tributary stream, or wetland and which is removed, or damaged or destroyed, regardless of the cause, by more than 50% of the market value of the structure before such damage, destruction or removal, may be reconstructed or replaced provided that a permit is obtained within eighteen (18) months of the date of said damage, destruction, or removal, and provided that such reconstruction or replacement is in compliance with the water body, tributary stream or wetland setback requirement to the greatest practical extent as determined by the Planning Board in accordance with the purposes of this Ordinance. In no case shall a structure be reconstructed or replaced so as to increase its non-conformity. If the reconstructed or replacement structure is less than the required setback it shall not be any larger than the original structure, except as allowed pursuant to Section 12(C)(1) above, as determined by the non-conforming floor area and volume of the reconstructed or replaced structure at its new location. If the total amount of floor area and volume of the original structure can be relocated or reconstructed beyond the required setback area, no portion of the relocated or reconstructed structure shall be replaced or constructed at less than the setback requirement for a new structure. When it is necessary to remove vegetation in order to replace or reconstruct a structure, vegetation shall be replanted in accordance with Section 12(C)(2) above.

Any non-conforming structure which is located less than the required setback from a water body, tributary stream, or wetland and which is removed by 50% or less of the market value, or damaged or destroyed by 50% or less of the market value of the structure, excluding normal maintenance and repair, may be reconstructed in place if a permit is obtained from the Planning Board within one year of such damage, destruction, or removal.

In determining whether the building reconstruction or replacement meets the setback to the greatest practical extent the Planning Board or its designee shall consider, in addition to the criteria in Section 12(C)(2) above, the physical condition and type of foundation present, if any.

- (4) Change of Use of a Non-conforming Structure. The use of a non-conforming structure may not be changed to another use unless the Planning Board, after receiving a written application, determines that the new use will have no greater adverse impact on the water body, tributary stream, or wetland, or on the subject or adjacent properties and resources than the existing use.

In determining that no greater adverse impact will occur, the Planning Board shall require written documentation from the applicant, regarding the probable effects on public health and safety, erosion and sedimentation, water quality, fish and wildlife habitat, vegetative cover, visual and actual points of public access to waters, natural beauty, floodplain management, archaeological and historic resources, and commercial fishing and maritime activities, and other functionally water-dependent uses.

D. Non-conforming Uses

- (1) **Expansions.** Expansions of non-conforming uses are prohibited, except that non-conforming residential uses may, after obtaining a permit from the Planning Board, be expanded within existing residential structures or within expansions of such structures as allowed in Section 12(C)(1)(a) above.
- (2) **Resumption Prohibited.** A lot, building or structure in or on which a non-conforming use is discontinued for a period exceeding one year, or which is superseded by a conforming use, may not again be devoted to a non-conforming use except that the Planning Board may, for good cause shown by the applicant, grant up to a one year extension to that time period. This provision shall not apply to the resumption of a use of a residential structure provided that the structure has been used or maintained for residential purposes during the preceding five (5) year period.
- (3) **Change of Use.** An existing non-conforming use may be changed to another non-conforming use provided that the proposed use has no greater adverse impact on the subject and adjacent properties and resources, including water dependent uses in the CFMA district, than the former use, as determined by the Planning Board. The determination of no greater adverse impact shall be made according to criteria listed in Section 12(C)(4) above.

E. Non-conforming Lots

- (1) **Non-conforming Lots:** A non-conforming lot of record as of the effective date of this Ordinance or amendment thereto may be built upon, without the need for a variance, provided that such lot is in separate ownership and not contiguous with any other lot in the same ownership, and that all provisions of this Ordinance except lot area, lot width and shore frontage can be met. Variances relating to setback or other requirements not involving lot area, lot width or shore frontage shall be obtained by action of the Board of Appeals.
- (2) **Contiguous Built Lots:** If two or more contiguous lots or parcels are in a single or joint ownership of record at the time of adoption of this Ordinance, if all or part of the lots do not meet the dimensional requirements of this Ordinance, and if a principal use or structure exists on each lot, the non-conforming lots may be conveyed separately or together, provided that the State Minimum Lot Size Law (12 M.R.S.A. sections 4807-A through 4807-D) and the State of Maine Subsurface Wastewater Disposal Rules are complied with.

If two or more principal uses or structures existed on a single lot of record on the effective date of this ordinance, each may be sold on a separate lot provided that the above referenced law and rules are complied with. When such lots are divided each lot thus created must be as conforming as possible to the dimensional requirements of this Ordinance.

Contiguous Lots - Vacant or Partially Built: If two or more contiguous lots or parcels are in single or joint ownership of record at the time of or since adoption or amendment of this Ordinance, if any of these lots do not individually meet the dimensional requirements of this Ordinance or subsequent amendments, and if one or more of the lots are vacant or contain no principal structure the lots shall be combined to the extent necessary to meet the dimensional requirements.

13. Establishment of Districts

A. Resource Protection District. The Resource Protection District includes areas in which development would adversely affect water quality, productive habitat, biological ecosystems, or scenic and natural values. This district shall include the following areas when they occur within the limits of the shoreland zone, exclusive of the Stream Protection District, except that areas which are currently developed and areas which meet the criteria for Commercial Fisheries/Maritime Activities Districts need not be included within the Resource Protection District.

- (1) Areas within 250 feet, horizontal distance, of the upland edge of freshwater wetlands, salt marshes and salt meadows, and wetlands associated with great ponds and rivers, which are rated "moderate" or "high" value waterfowl and wading bird habitat, including nesting and feeding areas, by the Maine Department of Inland Fisheries and Wildlife (MDIF&W) that are depicted on a Geographic Information System (GIS) data layer maintained by either MDIF&W or the Department as of May 1, 2006. For the purposes of this paragraph "wetlands associated with great ponds and rivers" shall mean areas characterized by non-forested wetland vegetation and hydric soils that are contiguous with a great pond or river, and have a surface elevation at or below the water level of the great pond or river during the period of normal high water. "Wetlands associated with great ponds or rivers" are considered to be part of that great pond or river.
- (2) Floodplains along rivers and floodplains along artificially formed great ponds along rivers, defined by the 100 year floodplain as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps, or the flood of record, or in the absence of these, by soil types identified as recent floodplain soils. This district shall also include 100 year floodplains adjacent to tidal waters as shown on FEMA's Flood Insurance Rate Maps or Flood Hazard Boundary Maps.
- (3) Areas of two or more contiguous acres with sustained slopes of 20% or greater.
- (4) Areas of two (2) or more contiguous acres supporting wetland vegetation and hydric soils, which are not part of a freshwater or coastal wetland as defined, and which are not surficially connected to a water body during the period of normal high water.
- (5) Land areas along rivers subject to severe bank erosion, undercutting, or river bed movement, and lands adjacent to tidal waters which are subject to severe erosion or mass movement, such as steep coastal bluffs.

B. Residential District. The Residential District includes those areas suitable for residential and recreational development. It includes areas other than those in the Resource Protection District, Stream Protection District, or the Commercial Fisheries/Maritime Activities District.

C. Commercial Fisheries/Maritime Activities District. The Commercial Fisheries/Maritime Activities District includes areas where the existing predominant pattern of development is consistent with the allowed uses for this district as indicated in the Table of Land Uses, Section 14, and other areas which are suitable for functionally water-dependent uses, taking into consideration such factors as:

- (1) Shelter from prevailing winds and waves;
- (2) Slope of the land within 250 feet, horizontal distance, of the shoreline;

- (3) Depth of the water within 150 feet, horizontal distance, of the shoreline;
- (4) Available support facilities including utilities and transportation facilities; and
- (5) Compatibility with adjacent upland uses.

D. Stream Protection District. The Stream Protection District includes all land areas within seventy-five (75) feet, horizontal distance, of the normal high-water line of a stream, exclusive of those areas within two-hundred and fifty (250) feet, horizontal distance, of the normal high-water line of a great pond, or river, or within two hundred and fifty (250) feet, horizontal distance, of the upland edge of a freshwater or coastal wetland. Where a stream and its associated shoreland area are located within two-hundred and fifty (250) feet, horizontal distance, of the above water bodies or wetlands, that land area shall be regulated under the terms of the shoreland district associated with that water body or wetland.

14. Table of Land Uses. All land use activities, as indicated in Table 1, Land Uses in the Shoreland Zone, shall conform with all of the applicable land use standards in Section 15. The district designation for a particular site shall be determined from the Official Shoreland Zoning Map.

Key to Table 1:

- Yes - Allowed (no permit required but the use must comply with all applicable land use standards.)
- No - Prohibited
- PB - Allowed with permit issued by the Planning Board.
- CEO - Allowed with permit issued by the Code Enforcement Officer
- LPI - Allowed with permit issued by the Local Plumbing Inspector

Abbreviations:

- SP - Stream Protection
- RP - Resource Protection
- R - Residential
- CFMA - Commercial Fisheries/Maritime Activities

TABLE 1. LAND USES IN THE SHORELAND ZONE

<u>LAND USES</u>	<u>DISTRICT</u>			
	<u>SP</u>	<u>RP</u>	<u>R</u>	<u>CFMA</u>
1. Non-intensive recreational uses not requiring structures such as hunting, fishing and hiking	yes	yes	yes	yes
2. Motorized vehicular traffic on existing roads.	yes	yes	yes	yes
3. Forest management activities except for timber harvesting & land management roads	yes	yes	yes	yes
4. Timber harvesting	yes	CEO	yes	yes
5. Clearing or removal of vegetation for activities other than timber harvesting	CEO	CEO	yes	yes
6. Fire prevention activities	yes	yes	yes	yes
7. Wildlife management practices	yes	yes	yes	yes
8. Soil and water conservation practices	yes	yes	yes	yes
9. Mineral exploration	no	no	no	no
10. Mineral extraction including sand and gravel extraction	no	no	no	no
11. Surveying and resource analysis	yes	yes	yes	yes
12. Emergency operations	yes	yes	yes	yes
13. Agriculture	PB	PB	yes	PB
14. Aquaculture	PB	PB	PB	PB
15. Principal structures and uses				
A. One and two family residential, including driveways	no	PB ⁸	PB	no
B. Multi-unit residential	no	no	no	no
C. Commercial	no	no	no ⁶	PB ³
D. Industrial	no	no	no	PB ⁷
E. Governmental and institutional	no	no	PB	PB ⁷
F. Small non-residential facilities for educational, scientific, or nature interpretation purposes	no	no	PB	PB ⁷
16. Structures accessory to allowed uses	PB ²	PB	PB	PB
17. Piers, docks, wharfs, bridges and other structures and uses extending over or below the normal high-water line or within a wetland				
a. Temporary	No	No	PB	PB
b. Permanent	No	No	PB	PB
18. Conversions of seasonal residences to year-round residences	No	PB ²	PB	no
19. Home occupations	PB	PB	yes	yes
20. Private sewage disposal systems for allowed uses	LPI	LPI	LPI	LPI
21. Essential services	PB ⁴	PB ⁴	PB	PB

A. Roadside distribution lines (34.5kV and lower)	PB	PB	yes⁷	yes⁷
B. Non-roadside or cross-country distribution lines involving ten poles or less in the shoreland zone	PB⁴	PB⁴	PB	PB
C. Non-roadside or cross-country distribution lines involving eleven or more poles in the shoreland zone	PB⁴	PB⁴	PB	PB
D. Other essential services	PB⁴	PB⁴	PB	PB
22. Service drops, as defined, to allowed uses	yes	yes	yes	yes
23. Public and private recreational areas involving minimal structural development	PB	PB	PB	PB³
24. Individual, private campsites	no	no	PB	no
25. Campgrounds	no	no	no	no
26. Road construction	no	no	PB	PB⁷
27. Land management roads	yes	PB	yes	yes
28. Parking facilities	no	no	PB	PB⁴
29. Marinas	PB	no	PB	PB
30. Filling and earth moving of <10 cubic yards	CEO	CEO	yes	yes
31. Filling and earth moving of >10 cubic yards	PB	PB	PB	PB
32. Signs	yes	yes	yes	yes
33. Uses similar to allowed uses	PB	PB	PB	PB
34. Uses similar to uses requiring a CEO permit	CEO	CEO	CEO	CEO
35. Uses similar to uses requiring a PB permit	PB	PB	PB	PB

¹In RP not allowed within 75 feet horizontal distance, of the normal high-water line of great ponds, except to remove safety hazards.

²Provided that a variance from the setback requirement is obtained from the Board of Appeals.

³Functionally water-dependent uses and uses accessory to such water dependent uses only.

⁴See further restrictions in Section 15(L)(2).

⁵Except as provided in Section 15(H)(3).

⁶Except for commercial uses otherwise listed in this Table, such as marinas and campgrounds, that are allowed in the respective district.

⁷Permit not required but must file a written "notice of intent to construct" with CEO.

⁸ Single family residential structures may be allowed by special exception only according to the provisions of Section 16(E), Special Exceptions. Two-family residential structures are prohibited.

NOTE: A person performing any of the following activities shall require a permit from the Department of Environmental Protection, pursuant to 38 M.R.S.A. section 480-C, if the activity occurs in, on, over or

adjacent to any freshwater or coastal wetland, great pond, river, stream or brook and operates in such a manner that material or soil may be washed into them:

- A. Dredging, bulldozing, removing or displacing soil, sand, vegetation or other materials;
- B. Draining or otherwise dewatering;
- C. Filling, including adding sand or other material to a sand dune; or
- D. Any construction or alteration of any permanent structure.

15. Land Use Standards. All land use activities within the shoreland zone shall conform with the following provisions, if applicable.

A. Minimum Lot Standards

	Minimum Lot Area (sq. ft.)	Minimum Shore Frontage (ft.)
(1)		
(a) Residential per dwelling unit		
(i) Within the Shoreland Zone Adjacent to Tidal Areas	75,000	300
(ii) Within the Shoreland Zone Adjacent to Non-Tidal Areas	75,000	300
(b) Governmental, Institutional, Commercial or Industrial per principal structure		
(i) Within the Shoreland Zone Adjacent to Tidal Areas, Exclusive of Those Areas Zoned for Commercial Fisheries and Maritime Activities	40,000	200
(ii) Within the Shoreland Zone Adjacent to Tidal Areas Zoned for Commercial Fisheries and Maritime Activities	10,000	50
(iii) Within the Shoreland Zone Adjacent to Non-tidal Areas	60,000	300
(c) Public and Private Recreational Facilities		
(i) Within the Shoreland Zone Adjacent to Tidal and Non-Tidal Areas	40,000	200
(2) Land below the normal high-water line of a water body or upland edge of a wetland and land beneath roads serving more than two (2) lots shall not be included toward calculating minimum lot area.		

- (3) Lots located on opposite sides of a public or private road shall be considered each a separate tract or parcel of land unless such road was established by the owner of land on both sides thereof after September 22, 1971, or unless one or more of the lots are non-conforming and the parcels were described as one lot on the recorded deed at the time of the adoption of this ordinance.
- (4) The minimum width of any portion of any lot within one hundred (100) feet, horizontal distance, of the normal high-water line of a water body or upland edge of a wetland shall be equal to or greater than the shore frontage requirement for a lot with the proposed use.
- (5) If more than one residential dwelling unit, principal governmental, institutional, commercial or industrial structure or use, or combination thereof, is constructed or established on a single parcel, all dimensional requirements shall be met for each additional dwelling unit, principal structure, or use.
- (6) Notwithstanding the above, lots of record as of the date of enactment of this revision of the Bremen Shoreland Zoning ordinance which do not meet the minimum frontage requirements as set forth above may be subdivided provided:
 - (a) Lots with non-conforming frontage (less than the minimum frontage set out above) and a depth of 250 ft. or less) may not be further subdivided.
 - (b) Lots with non-conforming frontage shall not be made more non-conforming by division of the frontage or otherwise, and
 - (c) The minimum lot area for any subdivided lot having non-conforming frontage shall be established by multiplying the existing frontage by the 250 ft. depth of the shoreland zone, and
 - (d) Lots with non-conforming frontage which are part of a larger subdivision containing parcels beyond the Shoreland Zone may be approved by the Planning Board as a common lot for the benefit of other lots within the subdivision existing within or outside the Shoreland Zone. All other Shoreland Zone conditions shall apply to any such common lot, and
 - (e) Conforming lots (lots with frontage of 300 ft. or more) may not be divided so as to create a lot with non-conforming frontage.

B. Principal and Accessory Structures

- (1) All new principal and accessory structures shall be set back at least seventy-five (75) feet from the normal high-water line, horizontal distance, of tributary streams and at least one hundred-fifty (150) feet, horizontal distance, from the normal high-water line of all other water bodies, or the upland edge of a wetland, except that in the Commercial Fisheries/Maritime Activities District there shall be no minimum setback. In the Resource Protection District the setback requirement shall be 250 feet, horizontal distance, except for structures, roads, parking spaces or other regulated objects specifically allowed in that district in which case the setback requirements specified above shall apply.

In addition:

- (a) The water body, tributary stream, or wetland setback provision shall neither apply to structures which require direct access to the water body or wetland as an operational necessity, such as piers, docks and retaining walls, nor to other functionally water-dependent uses.

(b) For principal structures, water and wetland setback measurements shall be taken from the top of a coastal bluff that has been identified on Coastal Bluff maps as being "highly unstable" or "unstable" by the Maine Geological Survey pursuant to its "Classification of Coastal Bluffs" and published on the most recent Coastal Bluff map. If the applicant and the permitting official(s) are in disagreement as to the specific location of a "highly unstable" or "unstable" bluff, or where the top of the bluff is located, the applicant may at his or her expense, employ a Maine Registered Professional Engineer, a Maine Certified Soil Scientist, a Maine State Geologist, or other qualified individual to make a determination. If agreement is still not reached, the applicant may appeal the matter to the board of appeals..

(c) On a non-conforming lot of record on which only a residential structure exists, and it is not possible to place an accessory structure meeting the required water body, tributary stream or wetland setbacks, the Planning Board may issue a permit to place a single accessory structure, with no utilities, for the storage of yard tools and similar equipment. Such accessory structure shall not exceed eighty (80) square feet in area nor eight (8) feet in height, and shall be located as far from the shoreline or tributary stream as practical and shall meet all other applicable standards, including lot coverage and vegetation clearing limitations. In no case shall the structure be located closer to the shoreline or tributary stream than the principal structure.

(2) Principal or accessory structures and expansions of existing structures which are permitted in the Resource Protection, Stream Protection and Residential Districts, shall not exceed thirty-five (35) feet in height. This provision shall not apply to structures such as transmission towers, windmills, antennas, and similar structures having no floor area.

(3) The lowest floor elevation or openings of all buildings and structures, including basements, shall be elevated at least one foot above the elevation of the 100 year flood, the flood of record, or in the absence of these, the flood as defined by soil types identified as recent flood-plain soils. In those municipalities that participate in the National Flood Insurance Program and have adopted the April 2005 version, or later version, of the Floodplain Management Ordinance, accessory structures may be placed in accordance with the standards of that ordinance and need not meet the elevation requirements of this paragraph.

(4) The total footprint area of all structures, parking lots and other non-vegetated surfaces, within the shoreland zone shall not exceed twenty (20) percent of the lot or a portion thereof, located within the shoreland zone, including land area previously developed, except for structures in the Commercial Fisheries/Maritime Activities District, where lot coverage shall not exceed seventy (70) percent. Existing residential and accessory structures in the CF/MA District are restricted to a total footprint area not to exceed twenty (20) percent of the lot or a portion thereof.

(5) Retaining walls¹ that are not necessary for erosion control shall meet the structure setback requirement, except for low retaining walls and associated fill provided all of the following conditions are met:

(a) The site has been previously altered and an effective vegetated buffer does not exist;

¹ If the wall and associated soil disturbance occurs within 75 feet, horizontal distance, of a water body, tributary stream or coastal wetland, a permit pursuant to the Natural Resource Protection Act is required from the Department of Environmental Protection.

- (b) The wall(s) is(are) at least 25 feet, horizontal distance, from the normal high-water line of a water body, tributary stream, or upland edge of a wetland;
- (c) The site where the retaining wall will be constructed is legally existing lawn or is a site eroding from lack of naturally occurring vegetation, and which cannot be stabilized with vegetative plantings;
- (d) The total height of the wall(s), in the aggregate, are no more than 24 inches;
- (e) Retaining walls are located outside of the 100-year floodplain on rivers, streams, coastal wetlands, and tributary streams, as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps, or the flood of record, or in the absence of these, by soil types identified as recent flood plain soils.
- (f) The area behind the wall is revegetated with grass, shrubs, trees, or a combination thereof, and no further structural development will occur within the setback area, including patios and decks; and
- (g) A vegetated buffer area is established within 25 feet, horizontal distance, of the normal high-water line of a water body, tributary stream, or upland edge of a wetland when a natural buffer area does not exist. The buffer area must meet the following characteristics:

The buffer must include shrubs and other woody and herbaceous vegetation. Where natural ground cover is lacking the area must be supplemented with leaf or bark mulch;

- (ii) Vegetation plantings must be in quantities sufficient to retard erosion and provide for effective infiltration of stormwater runoff;
- (iii) Only native species may be used to establish the buffer area;
- (iv) A minimum buffer width of 15 feet, horizontal distance, is required, measured perpendicularly to the normal high-water line or upland edge of a wetland;
- (v) A footpath not to exceed the standards in Section 15(P)(2)(a), may traverse the buffer;

(6) Notwithstanding the requirements stated above, stairways or similar structures may be allowed with a permit from the Planning Board, to provide shoreline access in areas of steep slopes or unstable soils provided: that the structure is limited to a maximum of four (4) feet in width; that the structure does not extend below or over the normal high-water line of a water body or upland edge of a wetland, (unless permitted by the Department of Environmental Protection pursuant to the Natural Resources Protection Act, 38 M.R.S.A. section 480-C); and that the applicant demonstrates that no reasonable access alternative exists on the property.

C. Piers, Docks, Wharves, Bridges and Other Structures and Uses Extending Over or Below the Normal High-Water Line of a Water Body or Within a Wetland. ²

² New permanent structures, and expansions thereof, projecting into or over water bodies shall require a permit from the Department of Environmental Protection pursuant to the Natural Resources Protection Act, 38 M.R.S.A. section 480-C. Permits may also be required from the Bremen Harbor

- (1) Access from shore shall be developed on soils appropriate for such use and constructed so as to control erosion.
- (2) The location shall not interfere with existing developed or natural beach areas.
- (3) The facility shall be located so as to minimize adverse effects on fisheries.
- (4) The facility shall be no larger in dimension than necessary to carry on the activity and be consistent with the surrounding character and uses of the area. A temporary pier, dock or wharf in non-tidal waters shall not be wider than six feet for non-commercial uses.
- (5) No new structure shall be built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland unless the structure requires direct access to the water body or wetland as an operational necessity.
- (6) New permanent piers and docks on non-tidal waters shall not be permitted unless it is clearly demonstrated to the Planning Board that a temporary pier or dock is not feasible, and a permit has been obtained from the Department of Environmental Protection, pursuant to the Natural Resources Protection Act.
- (7) No existing structures built on, over or abutting a pier, dock, wharf or other structure extending beyond the normal high-water line of a water body or within a wetland shall be converted to residential dwelling units in any district.
- (8) Except in the Commercial Fisheries/Maritime Activities District, structures built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland shall not exceed twenty (20) feet in height above the pier, wharf, dock or other structure.

D. Campgrounds. No campgrounds are allowed in the Shoreland Zone.

E. Individual Private Campsites. Individual private campsites not associated with campgrounds are allowed provided the following conditions are met:

- (1) One campsite per lot existing on the effective date of this Ordinance, or 75 thousand (75,000) square feet of lot area within the shoreland zone, whichever is less, may be permitted.
- (2) Campsite placement on any lot, including the area intended for a recreational vehicle or tent platform, shall be set back at least seventy-five (75) feet from the normal high-water line, horizontal distance, of tributary streams and at least one hundred-fifty (150) feet, horizontal distance, from the normal high-water line of all other water bodies, or the upland edge of a wetland.
- (3) Only one recreational vehicle shall be allowed on a campsite. The recreational vehicle shall not be located on any type of permanent foundation except for a gravel pad, and no structure except a canopy shall be attached to the recreational vehicle.

Committee and the Army Corps of Engineers if located in navigable waters.

- (4) A written sewage disposal plan describing the proposed method and location of sewage disposal shall be required for each campsite and shall be approved by the Local Plumbing Inspector. Where disposal is off-site, written authorization from the receiving facility or land owner is required.
 - (5) When a recreational vehicle, tent or similar shelter is placed on-site for more than one hundred and twenty (120) days per year, all requirements for residential structures shall be met, including the installation of a subsurface sewage disposal system in compliance with the State of Maine Subsurface Wastewater Disposal Rules unless served by public sewage facilities, and a residential growth cap permit is obtained.
- F. Commercial and Industrial Uses.** The following new commercial and industrial uses are prohibited within the shoreland zone adjacent to great ponds classified GPA, and rivers and streams which flow to great ponds classified GPA:

- (1) Auto washing facilities
- (2) Auto or other vehicle service and/or repair operations, including body shops
- (3) Chemical and bacteriological laboratories
- (4) Storage of chemicals, including herbicides, pesticides or fertilizers, other than amounts normally associated with individual households or farms
- (5) Commercial painting, wood preserving, and furniture stripping
- (6) Dry cleaning establishments
- (7) Electronic circuit assembly
- (8) Laundromats, unless connected to a sanitary sewer
- (9) Metal plating, finishing, or polishing
- (10) Petroleum or petroleum product storage and/or sale except storage on same property as use occurs and except for storage and sales associated with marinas
- (11) Photographic processing
- (12) Printing

G. Parking Areas

- (1) Parking areas shall meet the shoreline and tributary stream setback requirements for structures for the district in which such areas are located, except that in the Commercial Fisheries/Maritime Activities District parking areas shall be set back at least twenty-five (25) feet, horizontal distance, from the shoreline. The setback requirement for parking areas serving public boat launching facilities in Districts other than Commercial Fisheries/Maritime Activities District shall be no less than fifty (50) feet, horizontal distance, from the shoreline or tributary stream if the Planning Board finds that no other reasonable alternative exists further from the shoreline or tributary stream.

- (2) Parking areas shall be adequately sized for the proposed use and shall be designed to prevent stormwater runoff from flowing directly into a water body, tributary stream or wetland and where feasible, to retain all runoff on-site.
- (3) In determining the appropriate size of proposed parking facilities, the following shall apply:
 - (a) Typical parking space: Approximately ten (10) feet wide and twenty (20) feet long, except that parking spaces for a vehicle and boat trailer shall be forty (40) feet long.
 - (b) Internal travel aisles: Approximately twenty (20) feet wide.

H. Roads and Driveways. The following standards shall apply to the construction of roads and/or driveways and drainage systems, culverts and other related features.

- (1) Roads and driveways shall be set back at least seventy-five (75) feet from the normal high-water line, horizontal distance, of tributary streams and at least one hundred-fifty (150) feet, horizontal distance, from the normal high-water line of all other water bodies, or the upland edge of a wetland, unless no reasonable alternative exists as determined by the Planning Board. If no other reasonable alternative exists, the road and/or driveway setback requirement shall be no less than fifty (50) feet, horizontal distance, upon clear showing by the applicant that appropriate techniques will be used to prevent sedimentation of the water body, tributary stream, or wetland. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed so as to avoid sedimentation of the water body, tributary stream, or wetland.

On slopes of greater than twenty (20) percent the road and/or driveway setback shall be increased by ten (10) feet, horizontal distance, for each five (5) percent increase in slope above twenty (20) percent.

Section 15 (H)(1) does not apply to approaches to water crossings or to roads or driveways that provide access to permitted structures and facilities located nearer to the shoreline or tributary stream due to an operational necessity, excluding docks and accessory buildings for private recreational uses. Roads and driveways providing access to permitted structures within the setback area shall comply fully with the requirements of Section 15(H)(1) except for that portion of the road or driveway necessary for direct access to the structure.

- (2) Existing public roads may be expanded within the legal road right of way regardless of their setback from a water body, tributary stream or wetland.
- (3) New roads and driveways are prohibited in a Resource Protection District except that the Planning Board may grant a permit to construct a road or driveway to provide access to permitted uses within the district. A road or driveway may also be approved by the Planning Board in a Resource Protection District, upon a finding that no reasonable alternative route or location is available outside the district. When a road or driveway is permitted in a Resource Protection District the road and/or driveway shall be set back as far as practicable from the normal high-water line of a water body, tributary stream, or upland edge of a wetland.
- (4) Road and driveway banks shall be no steeper than a slope of two (2) horizontal to one (1) vertical, and shall be graded and stabilized in accordance with the provisions for erosion and sedimentation control contained in Section 15(Q).

- (5) Road and driveway grades shall be no greater than ten (10) percent except for segments of less than two hundred (200) feet.
- (6) In order to prevent road and driveway surface drainage from directly entering water bodies, tributary streams or wetlands, roads and driveways shall be designed, constructed, and maintained to empty onto an unscarified buffer strip at least (50) feet plus two times the average slope, in width between the outflow point of the ditch or culvert and the normal high-water line of a water body, tributary stream, or upland edge of a wetland. Surface drainage which is directed to an unscarified buffer strip shall be diffused or spread out to promote infiltration of the runoff and to minimize channelized flow of the drainage through the buffer strip.
- (7) Ditch relief (cross drainage) culverts, drainage dips and water turnouts shall be installed in a manner effective in directing drainage onto unscarified buffer strips before the flow gains sufficient volume or head to erode the road, driveway, or ditch. To accomplish this, the following shall apply:

- (a) Ditch relief culverts, drainage dips and associated water turnouts shall be spaced along the road, or driveway at intervals no greater than indicated in the following table:

Grade (Percent)	Spacing (Feet)
0-2	250
3-5	200-135
6-10	100-80
11-15	80-60
16-20	60-45
21 +	40

- (b) Drainage dips may be used in place of ditch relief culverts only where the grade is ten (10) percent or less.
- (c) On sections having slopes greater than ten (10) percent, ditch relief culverts shall be placed at approximately a thirty (30) degree angle downslope from a line perpendicular to the centerline of the road or driveway.
- (d) Ditch relief culverts shall be sufficiently sized and properly installed in order to allow for effective functioning, and their inlet and outlet ends shall be stabilized with appropriate materials.
- (8) Ditches, culverts, bridges, dips, water turnouts and other storm water runoff control installations associated with roads and driveways shall be maintained on a regular basis to assure effective functioning.

I. Signs. The following provisions shall govern the use of signs in the Resource Protection, Stream Protection, and Residential Districts:

- (1) Signs relating to goods and services sold on the premises shall be allowed, provided that such signs shall not exceed six (6) square feet in area and shall not exceed two (2) signs per premises. Signs relating to goods or services not sold or rendered on the premises shall be prohibited.

- (2) Name signs are allowed, provided such signs shall not exceed two (2) signs per premises, and shall not exceed twelve (12) square feet in the aggregate.
- (3) Residential users may display a single sign not over three (3) square feet in area relating to the sale, rental, or lease of the premises.
- (4) Signs relating to trespassing and hunting shall be allowed without restriction as to number provided that no such sign shall exceed two (2) square feet in area.
- (5) Signs relating to public safety shall be allowed without restriction.
- (6) No sign shall extend higher than twenty (20) feet above the ground.
- (7) Signs may be illuminated only by shielded, non-flashing lights.

J. Storm Water Runoff³

- (1) All new construction and development shall be designed to minimize storm water runoff from the site in excess of the natural predevelopment conditions. Where possible, existing natural runoff control features, such as berms, swales, terraces and wooded areas, shall be retained in order to reduce runoff and encourage infiltration of stormwaters.
- (2) Storm water runoff control systems shall be maintained as necessary to ensure proper functioning.

K. Septic Waste Disposal⁴

- (1) All subsurface sewage disposal systems shall be installed in conformance with the State of Maine Subsurface Wastewater Disposal Rules, and the following: a) clearing or removal of woody vegetation necessary to site a new system and any associated fill extensions, shall not extend closer than seventy-five (75) feet, horizontal distance, from the normal high-water line of a water body or the upland edge of a wetland and b) a holding tank is not allowed for a first-time residential use in the shoreland zone.

L. Essential Services

³The Stormwater Management Law (38 M.R.S.A. section 420-D) requires a full permit to be obtained from the DEP prior to construction of a project consisting of 20,000 square feet or more of impervious area or 5 acres or more of a developed area in an urban impaired stream watershed or most-at-risk lake watershed, or a project with 1 acre or more of developed area in any other stream, coastal or wetland watershed. A permit-by-rule is necessary for a project with one acre or more of disturbed area but less than 1 acre impervious area (20,000 square feet for most-at-risk lakes and urban impaired streams) and less than 5 acres of developed area. Furthermore, a Maine Construction General Permit is required if the construction will result in one acre or more of disturbed area.

⁴ The Maine Subsurface Wastewater Disposal Rules require new systems, excluding fill extensions, to be constructed no less than one hundred (100) horizontal feet from the normal high-water (footnote continued from previous page) line of a perennial water body. The minimum setback distance for a new subsurface disposal system may not be reduced by variance.

- (1) Where feasible, the installation of essential services shall be limited to existing public ways and existing service corridors.

The installation of essential services, other than road-side distribution lines, is not allowed in a Resource Protection or Stream Protection District, except to provide services to a permitted use within said district, or except where the applicant demonstrates that no reasonable alternative exists. Where allowed, such structures and facilities shall be located so as to minimize any adverse impacts on surrounding uses and resources, including visual impacts.

- (3) Damaged or destroyed public utility transmission and distribution lines, towers and related equipment may be replaced or reconstructed without a permit.

M. Mineral Exploration and Extraction. No mineral exploration or extraction shall be allowed in the Shoreland Zone.

N. Agriculture

- (1) All spreading of manure shall be accomplished in conformance with the *Manure Utilization Guidelines* published by the Maine Department of Agriculture on November 1, 2001, and the Nutrient Management Law (7 M.R.S.A. sections 4201-4209).
- (2) Manure shall not be stored or stockpiled within seventy-five (75) feet from the normal high-water line, horizontal distance, of tributary streams and one hundred-fifty (150) feet, horizontal distance, from the normal high-water line of all other water bodies, or the upland edge of a wetland. All manure storage areas within the shoreland zone must be constructed or modified such that the facility produces no discharge of effluent or contaminated storm water.
- (3) Agricultural activities involving tillage of soil greater than forty thousand (40,000) square feet in surface area, within the shoreland zone shall require a Conservation Plan⁵ to be filed with the Planning Board. Non-conformance with the provisions of said plan shall be considered to be a violation of this Ordinance.
- (4) There shall be no new tilling of soil within seventy-five (75) feet from the normal high-water line, horizontal distance, of tributary streams and at least one hundred-fifty (150) feet, horizontal distance, from the normal high-water line of all other water bodies, or the upland edge of a wetland. Operations in existence on the effective date of this ordinance and not in conformance with this provision may be maintained.

Newly established livestock grazing areas shall not be permitted within seventy-five (75) feet from the normal high-water line, horizontal distance, of tributary streams and one hundred-fifty (150) feet, horizontal distance, from the normal high-water line of all other water bodies, or the upland edge of a wetland. Livestock grazing associated with ongoing farm activities, and which are not in conformance with the above setback provisions may continue, provided that such grazing is conducted in accordance with a Conservation Plan.

O. Timber Harvesting

⁵ Assistance in preparing a Conservation Plan may be available through the local Soil and Water Conservation District office.

- (1) In a Resource Protection District abutting a great pond, timber harvesting shall be limited to the following:
 - (a) Within the strip of land extending 75 feet, horizontal distance, inland from the normal high-water line, timber harvesting may be conducted when the following conditions are met:
 - (1) The ground is frozen;
 - (2) There is no resultant soil disturbance;
 - (3) The removal of trees is accomplished using a cable or boom and there is no entry of tracked or wheeled vehicles into the 75-foot strip of land;
 - (4) There is no cutting of trees less than 6 inches in diameter; no more than 30% of the trees 6 inches or more in diameter, measured at 4 ½ feet above ground level, are cut in any 10-year period; and a well-distributed stand of trees and other natural vegetation remains; and
 - (5) A licensed professional forester has marked the trees to be harvested prior to a permit being issued by the municipality.
 - (b) Beyond the 75 foot strip referred to in Section 15(O)(1)(a) above, timber harvesting is permitted in accordance with paragraph 2 below except that in no case shall the average residual basal area of trees over 4 ½ inches in diameter at 4 1/2 feet above ground level be reduced to less than 30 square feet per acre.
- (2) Except in areas as described in Section 15(O)(1) above, timber harvesting shall conform with the following provisions:
 - (a) Selective cutting of no more than forty (40) percent of the total volume of trees four (4) inches or more in diameter measured at 4 1/2 feet above ground level on any lot in any ten (10) year period is permitted. In addition:
 - (i) Within one-hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, and within seventy-five (75) feet, horizontal distance, of the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland, there shall be no clearcut openings and a well-distributed stand of trees and other vegetation, including existing ground cover, shall be maintained.
 - (ii) At distances greater than one-hundred (100) feet, horizontal distance, of a great pond classified GPA or a river flowing to a great pond classified GPA, and greater than seventy-five (75) feet, horizontal distance, of the normal high-water line of other water bodies or the upland edge of a wetland, harvesting operations shall not create single clearcut openings greater than ten-thousand (10,000) square feet in the forest canopy. Where such openings exceed five-thousand (5000) square feet they shall be at least one hundred (100) feet, horizontal distance, apart. Such clearcut openings shall be included in the calculation of total volume removal. Volume may be considered to be equivalent to basal area.
 - (b) Timber harvesting operations exceeding the 40% limitation in Section 15(O)(2)(a) above, may be allowed by the planning board upon a clear showing, including a forest management plan signed by a Maine licensed professional forester, that such an exception is necessary for good forest management and will be carried out in accordance with the purposes of this Ordinance. The planning board shall notify the Commissioner of the

Department of Environmental Protection of each exception allowed, within fourteen (14) days of the planning board's decision.

- (c) No accumulation of slash shall be left within fifty (50) feet, horizontal distance, of the normal high-water line of a water body. In all other areas slash shall either be removed or disposed of in such a manner that it lies on the ground and no part thereof extends more than four (4) feet above the ground. Any debris that falls below the normal high-water line of a water body or tributary stream shall be removed.
- (d) Timber harvesting equipment shall not use stream channels as travel routes except when:
 - (i) Surface waters are frozen; and
 - (ii) The activity will not result in any ground disturbance.
- (e) All crossings of flowing water shall require a bridge or culvert, except in areas with low banks and channel beds which are composed of gravel, rock or similar hard surface which would not be eroded or otherwise damaged.
- (f) Skid trail approaches to water crossings shall be located and designed so as to prevent water runoff from directly entering the water body or tributary stream. Upon completion of timber harvesting, temporary bridges and culverts shall be removed and areas of exposed soil revegetated.
- (g) Except for water crossings, skid trails and other sites where the operation of machinery used in timber harvesting results in the exposure of mineral soil shall be located such that an unscarified strip of vegetation of at least seventy-five (75) feet, horizontal distance, in width for slopes up to ten (10) percent shall be retained between the exposed mineral soil and the normal high-water line of a water body or upland edge of a wetland. For each ten (10) percent increase in slope, the unscarified strip shall be increased by twenty (20) feet, horizontal distance. The provisions of this paragraph apply only to a face sloping toward the water body or wetland, provided, however, that no portion of such exposed mineral soil on a back face shall be closer than twenty five (25) feet, horizontal distance, from the normal high-water line of a water body or upland edge of a wetland.

P. Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting

- (1) In a Resource Protection District abutting a great pond, there shall be no cutting of vegetation within the strip of land extending 75 feet, horizontal distance, inland from the normal high-water line, except to remove safety hazards.

Elsewhere, in any Resource Protection District the cutting or removal of vegetation shall be limited to that which is necessary for uses expressly authorized in that district.

- (2) Except in areas as described in Section P(1), above, and except to allow for the development of permitted uses, within a strip of land extending one-hundred (100) feet, horizontal distance, inland from the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, and seventy-five (75) feet, horizontal distance, from any other water body, tributary stream, or the upland edge of a wetland, a buffer strip of vegetation shall be preserved as follows:

- (a) There shall be no cleared opening greater than 250 square feet in the forest canopy (or other existing woody vegetation if a forested canopy is not present) as measured from the outer limits of the tree or shrub crown. However, a footpath not to exceed six (6) feet in width as measured between tree trunks and/or shrub stems is allowed provided that a cleared line of sight to the water through the buffer strip is not created.
- (b) Selective cutting of trees within the buffer strip is allowed provided that a well-distributed stand of trees and other natural vegetation is maintained. For the purposes of Section 15(P)(2)(b) a "well-distributed stand of trees" adjacent to a great pond classified GPA or a river or stream flowing to a great pond classified GPA, shall be defined as maintaining a rating score of 24 or more in each 25-foot by 50-foot rectangular (1250 square feet) area as determined by the following rating system.

Diameter of Tree at 4-1/2 feet Above Ground Level (inches)	Points
2 - < 4 in.	1
4 - < 8 in.	2
8 - < 12 in.	4
12 in. or greater	8

Adjacent to other water bodies, tributary streams, and wetlands, a "well-distributed stand of trees" is defined as maintaining a minimum rating score of 16 per 25-foot by 50-foot rectangular area.⁶

The following shall govern in applying this point system:

- (I) The 25-foot by 50-foot rectangular plots must be established where the landowner or lessee proposes clearing within the required buffer;
- (ii) Each successive plot must be adjacent to, but not overlap a previous plot;
- (iii) Any plot not containing the required points must have no vegetation removed except as otherwise allowed by this Ordinance;
- (iv) Any plot containing the required points may have vegetation removed down to the minimum points required or as otherwise allowed by is Ordinance;
- (v) Where conditions permit, no more than 50% of the points on any 25-foot by 50-foot rectangular area may consist of trees greater than 12 inches in diameter.

For the purposes of Section 15(P)(2)(b) "other natural vegetation" is defined as retaining existing vegetation under three (3) feet in height and other ground cover and retaining at least five (5) saplings less than two (2) inches in diameter at four and one half (4 ½) feet above ground level for each 25-foot by 50-foot rectangle area. If five saplings do not

⁶As an example, adjacent to a great pond, if a 25-foot x 50-foot plot contains four (4) trees between 2 and 4 inches in diameter, two trees between 4 and 8 inches in diameter, three trees between 8 and 12 inches in diameter, and two trees over 12 inches in diameter, the rating score is:

$$(4 \times 1) + (2 \times 2) + (3 \times 4) + (2 \times 8) = 36 \text{ points}$$

Thus, the 25-foot by 50-foot plot contains trees worth 36 points. Trees totaling 12 points (36- 24 =12) may be removed from the plot provided that no cleared openings are created.

exist, no woody stems less than two (2) inches in diameter can be removed until 5 saplings have been recruited into the plot.

Notwithstanding the above provisions, no more than 40% of the total volume of trees four (4) inches or more in diameter, measured at 4 1/2 feet above ground level may be removed in any ten (10) year period.

- (c) In order to protect water quality and wildlife habitat, existing vegetation under three (3) feet in height and other ground cover, including leaf litter and the forest duff layer, shall not be cut, covered, or removed, except to provide for a footpath or other permitted uses as described in Section 15(P) paragraphs (2) and (2)(a) above.
- (d) Pruning of tree branches, on the bottom 1/3 of the tree is allowed.
- (e) In order to maintain a buffer strip of vegetation, when the removal of storm-damaged, diseased, unsafe, or dead trees results in the creation of cleared openings, these openings shall be replanted with native tree species unless existing new tree growth is present.

Section 15(P)(2) does not apply to those portions of public recreational facilities adjacent to public swimming areas as long as cleared areas are limited to the minimum area necessary.

- (3) At distances greater than one hundred (150) feet, horizontal distance, from a great pond classified GPA, a river flowing to a great pond classified GPA, or from the normal high-water line of any other water body,, or the upland edge of a wetland, and seventy-five (75) feet, horizontal distance, of a tributary stream, there shall be allowed on any lot, in any ten (10) year period, selective cutting of not more than forty (40) percent of the volume of trees four (4) inches or more in diameter, measured 4 1/2 feet above ground level. Tree removal in conjunction with the development of permitted uses shall be included in the forty (40) percent calculation. For the purposes of these standards volume may be considered to be equivalent to basal area.

In no event shall cleared openings for any purpose, including but not limited to, principal and accessory structures, driveways, lawns and sewage disposal areas, exceed in the aggregate, 25% of the lot area within the shoreland zone or ten thousand (10,000) square feet, whichever is greater, including land previously cleared. This provision shall not apply to the Commercial Fisheries/Maritime Activities District except for those lots containing residential and accessory structures.

- (4) Legally existing nonconforming cleared openings may be maintained, but shall not be enlarged, except as allowed by this Ordinance.
- (5) Fields and other cleared openings which have reverted to primarily shrubs, trees, or other woody vegetation shall be regulated under the provisions of Section 15(P).

Q. Erosion and Sedimentation Control

- (1) All activities which involve filling, grading, excavation or other similar activities which result in unstabilized soil conditions and which require a permit shall also require a written soil erosion and sedimentation control plan. The plan shall be submitted to the permitting authority for approval and shall include, where applicable, provisions for:
 - (a) Mulching and revegetation of disturbed soil.

- (b) Temporary runoff control features such as hay bales, silt fencing or diversion ditches.
 - (c) Permanent stabilization structures such as retaining walls or rip-rap.
- (2) In order to create the least potential for erosion, development shall be designed to fit with the topography and soils of the site. Areas of steep slopes where high cuts and fills may be required shall be avoided wherever possible, and natural contours shall be followed as closely as possible.
 - (3) Erosion and sedimentation control measures shall apply to all aspects of the proposed project involving land disturbance, and shall be in operation during all stages of the activity. The amount of exposed soil at every phase of construction shall be minimized to reduce the potential for erosion.
 - (4) Any exposed ground area shall be temporarily or permanently stabilized within one (1) week from the time it was last actively worked, by use of riprap, sod, seed, and mulch, or other effective measures. In all cases permanent stabilization shall occur within nine (9) months of the initial date of exposure. In addition:
 - (a) Where mulch is used, it shall be applied at a rate of at least one (1) bale per five hundred (500) square feet and shall be maintained until a catch of vegetation is established.
 - (b) Anchoring the mulch with netting, peg and twine or other suitable method may be required to maintain the mulch cover.
 - (c) Additional measures shall be taken where necessary in order to avoid siltation into the water. Such measures may include the use of staked hay bales and/or silt fences.
 - (5) Natural and man-made drainage ways and drainage outlets shall be protected from erosion from water flowing through them. Drainageways shall be designed and constructed in order to carry water from a twenty five (25) year storm or greater, and shall be stabilized with vegetation or lined with riprap.
- R. Soils.** All land uses shall be located on soils in or upon which the proposed uses or structures can be established or maintained without causing adverse environmental impacts, including severe erosion, mass soil movement, improper drainage, and water pollution, whether during or after construction. Proposed uses requiring subsurface waste disposal, and commercial or industrial development and other similar intensive land uses, shall require a soils report based on an on-site investigation and be prepared by state-certified professionals. Certified persons may include Maine Certified Soil Scientists, Maine Registered Professional Engineers, Maine State Certified Geologists and other persons who have training and experience in the recognition and evaluation of soil properties. The report shall be based upon the analysis of the characteristics of the soil and surrounding land and water areas, maximum ground water elevation, presence of ledge, drainage conditions, and other pertinent data which the evaluator deems appropriate. The soils report shall include recommendations for a proposed use to counteract soil limitations where they exist.
- S. Water Quality.** No activity shall deposit on or into the ground or discharge to the waters of the State any pollutant that, by itself or in combination with other activities or substances, will impair designated uses or the water classification of the water body, tributary stream or wetland.
- T. Archaeological Site.** Any proposed land use activity involving structural development or soil disturbance on or adjacent to sites listed on, or eligible to be listed on the National Register of

Historic Places, as determined by the permitting authority, shall be submitted by the applicant to the Maine Historic Preservation Commission for review and comment, at least twenty (20) days prior to action being taken by the permitting authority. The permitting authority shall consider comments received from the Commission prior to rendering a decision on the application.

16. Administration

A. Administering Bodies and Agents

- (1) Code Enforcement Officer. A Code Enforcement Officer shall be appointed or reappointed annually by July 1st.
- (2) Board of Appeals. A Board of Appeals shall be created in accordance with the provisions of 30-A M.R.S.A. section 2691.
- (3) Planning Board. A Planning Board shall be created in accordance with the provisions of State law.

B. Permits Required. After the effective date of this Ordinance no person shall, without first obtaining a permit, engage in any activity or use of land or structure requiring a permit in the district in which such activity or use would occur; or expand, change, or replace an existing use or structure; or renew a discontinued nonconforming use. A person who is issued a permit pursuant to this Ordinance shall have a copy of the permit on site while the work authorized by the permit is performed.

- (1) A permit is not required for the replacement of an existing road culvert as long as:
 - (a) The replacement culvert is not more than 25% longer than the culvert being replaced;
 - (b) The replacement culvert is not longer than 75 feet; and
 - (c) Adequate erosion control measures are taken to prevent sedimentation of the water, and the crossing does not block fish passage in the watercourse.

A permit is not required for an archaeological excavation as long as the excavation is conducted by an archaeologist listed on the State Historic Preservation Officer's level 1 or level 2 approved list, and unreasonable erosion and sedimentation is prevented by means of adequate and timely temporary and permanent stabilization measures.

- (3) Any permit required by this Ordinance shall be in addition to any other permit required by other law or ordinance.

C. Permit Application

Every applicant for a permit shall submit a written application, including a scaled site plan, on a form provided by the municipality, to the appropriate official as indicated in Section 14.

- (2) All applications shall be signed by an owner or individual who can show evidence of right, title or interest in the property or by an agent, representative, tenant, or contractor of the owner with authorization from the owner to apply for a permit hereunder, certifying that the information in the application is complete and correct.

- (3) All applications shall be dated, and the Code Enforcement Officer or Planning Board, as appropriate, shall note upon each application the date and time of its receipt.
- (4) If the property is not served by a public sewer, a valid plumbing permit or a completed application for a plumbing permit, including the site evaluation approved by the Plumbing Inspector, shall be submitted whenever the nature of the proposed structure or use would require the installation of a subsurface sewage disposal system.

D. Procedure for Administering Permits. Within 50 days of the date of receiving a written application, the Planning Board, as indicated in Section 14, shall notify the applicant in writing either that the application is a complete application, or, if the application is incomplete, that specified additional material is needed to make the application complete. The Planning Board or Code Enforcement Officer, as appropriate, shall approve, approve with conditions, or deny all permit applications in writing within 50 days of receiving a completed application. However, if the Planning Board has a waiting list of applications, a decision on the application shall occur within 50 days after the first available date on the Planning Board's agenda following receipt of the completed application, or within 50 days of the public hearing, if the proposed use or structure is found to be in conformance with the purposes and provisions of this Ordinance.

The applicant shall have the burden of proving that the proposed land use activity is in conformity with the purposes and provisions of this Ordinance.

After the submission of a complete application to the Planning Board, the Board shall approve an application or approve it with conditions if it makes a positive finding based on the information presented that the proposed use:

- (1) Will maintain safe and healthful conditions;
- (2) Will not result in water pollution, erosion, or sedimentation to surface waters;
- (3) Will adequately provide for the disposal of all wastewater;
- (4) Will not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;
- (5) Will conserve shore cover and visual, as well as actual, points of access to inland and coastal waters;
- (6) Will protect archaeological and historic resources as designated in the comprehensive plan;
- (7) Will not adversely affect existing commercial fishing or maritime activities in a Commercial Fisheries/Maritime Activities district;
- (8) Will avoid problems associated with floodplain development and use; and
- (9) Is in conformance with the provisions of Section 15, Land Use Standards.

If a permit is either denied or approved with conditions, the reasons as well as conditions shall be stated in writing. No approval shall be granted for an application involving a structure if the structure would be located in an unapproved subdivision or would violate any other local ordinance, or regulation or statute administered by the municipality.

E. Special Exceptions. In addition to the criteria specified in Section 16(D) above, excepting structure setback requirements, the Planning Board may approve a permit for a single family residential structure in a Resource Protection District provided that the applicant demonstrates that all of the following conditions are met:

- (1) There is no location on the property, other than a location within the Resource Protection District, where the structure can be built.
- (2) The lot on which the structure is proposed is undeveloped and was established and recorded in the registry of deeds of the county in which the lot is located before the adoption of the Resource Protection District.
- (3) All proposed buildings, sewage disposal systems and other improvements are:
 - (a) Located on natural ground slopes of less than 20%; and
 - (b) Located outside the floodway of the 100-year flood-plain along rivers and artificially formed great ponds along rivers and outside the velocity zone in areas subject to tides, based on detailed flood insurance studies and as delineated on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps; all buildings, including basements, are elevated at least one foot above the 100-year flood-plain elevation; and the development is otherwise in compliance with any applicable municipal flood-plain ordinance.

If the floodway is not shown on the Federal Emergency Management Agency Maps, it is deemed to be 1/2 the width of the 100-year flood-plain.

- (4) The total ground-floor area, including cantilevered or similar overhanging extensions, of all principal and accessory structures is limited to a maximum of 1,500 square feet. This limitation shall not be altered by variance.
- (5) All structures, except functionally water-dependent structures, are set back from the normal high-water line of a water body, tributary stream or upland edge of a wetland to the greatest practical extent, but not less than 75 feet, horizontal distance. In determining the greatest practical extent, the Planning Board shall consider the depth of the lot, the slope of the land, the potential for soil erosion, the type and amount of vegetation to be removed, the proposed building site's elevation in regard to the flood-plain, and its proximity to moderate-value and high-value wetlands.

F. Expiration of Permit. Permits shall expire one year from the date of issuance if a substantial start is not made in construction or in the use of the property during that period. If a substantial start is made within one year of the issuance of the permit, the applicant shall have one additional year to complete the project, at which time the permit shall expire.

G. Installation of Public Utility Service. A public utility, water district, sanitary district or any utility company of any kind may not install services to any new structure located in the shoreland zone unless written authorization attesting to the validity and currency of all local permits required under this or any previous Ordinance has been issued by the appropriate municipal officials or other written arrangements have been made between the municipal officials and the utility.

H. Appeals

(1) Powers and Duties of the Board of Appeals. The Board of Appeals shall have the following powers:

(a) Administrative Appeals: To hear and decide administrative appeals, on an appellate basis, where it is alleged by an aggrieved party that there is an error in any order, requirement, decision, or determination made by, or failure to act by, the Planning Board in the administration of this Ordinance; and to hear and decide administrative appeals on a de novo basis where it is alleged by an aggrieved party that there is an error in any order, requirement, decision or determination made by, or failure to act by, the Code Enforcement Officer in his or her review of and action on a permit application under this Ordinance. Any order, requirement, decision or determination made, or failure to act, in the enforcement of this ordinance is not appealable to the Board of Appeals.

(b) Variance Appeals: To authorize variances upon appeal, within the limitations set forth in this Ordinance.

(2) Variance Appeals. Variances may be granted only under the following conditions:

(a) Variances may be granted only from dimensional requirements including, but not limited to, lot width, structure height, percent of lot coverage, and setback requirements.

(b) Variances shall not be granted for establishment of any uses otherwise prohibited by this Ordinance.

(c) The Board shall not grant a variance unless it finds that:

(i) The proposed structure or use would meet the provisions of Section 15 except for the specific provision which has created the non-conformity and from which relief is sought; and

(ii) The strict application of the terms of this Ordinance would result in undue hardship. The term "undue hardship" shall mean:

a. That the land in question cannot yield a reasonable return unless a variance is granted;

b. That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;

c. That the granting of a variance will not alter the essential character of the locality; and

d. That the hardship is not the result of action taken by the applicant or a prior owner.

(d) Notwithstanding Section 16(H)(2)(c)(ii) above, the Board of Appeals may grant a variance to an owner of a residential dwelling for the purpose of making that dwelling accessible to a person with a disability who resides in or regularly uses the dwelling. The board shall restrict any variance granted under this subsection solely to the installation of equipment or the construction of structures necessary for access to or egress from the dwelling by the person with the disability. The board may impose conditions on the variance, including

limiting the variance to the duration of the disability or to the time that the person with the disability lives in the dwelling. The term "structures necessary for access to or egress from the dwelling" shall include railing, wall or roof systems necessary for the safety or effectiveness of the structure.

- (e) The Board of Appeals shall limit any variances granted as strictly as possible in order to ensure conformance with the purposes and provisions of this Ordinance to the greatest extent possible, and in doing so may impose such conditions to a variance as it deems necessary. The party receiving the variance shall comply with any conditions imposed.
- (f) A copy of each variance request, including the application and all supporting information supplied by the applicant, shall be forwarded by the municipal officials to the Commissioner of the Department of Environmental Protection at least twenty (20) days prior to action by the Board of Appeals. Any comments received from the Commissioner prior to the action by the Board of Appeals shall be made part of the record and shall be taken into consideration by the Board of Appeals.

(3) Administrative Appeals

When the Board of Appeals reviews a decision of the Code Enforcement Officer the Board of Appeals shall hold a "de novo" hearing. At this time the Board may receive and consider new evidence and testimony, be it oral or written. When acting in a "de novo" capacity the Board of Appeals shall hear and decide the matter afresh, undertaking its own independent analysis of evidence and the law, and reaching its own decision.

When the Board of Appeals hears a decision of the Planning Board, it shall hold an appellate hearing, and may reverse the decision of the Planning Board only upon finding that the decision was contrary to specific provisions of the Ordinance or contrary to the facts presented to the Planning Board. The Board of Appeals may only review the record of the proceedings before the Planning Board. The Board Appeals shall not receive or consider any evidence which was not presented to the Planning Board, but the Board of Appeals may receive and consider written or oral arguments. If the Board of Appeals determines that the record of the Planning Board proceedings are inadequate, the Board of Appeals may remand the matter to the Planning Board for additional fact finding.

(4) Appeal Procedure

(a) Making an Appeal

- (i) An administrative or variance appeal may be taken to the Board of Appeals by an aggrieved party from any decision of the Code Enforcement Officer or the Planning Board, except for enforcement-related matters as described in Section 16(H)(1)(a) above. Such an appeal shall be taken within thirty (30) days of the date of the official, written decision appealed from, and not otherwise, except that the Board, upon a showing of good cause, may waive the thirty (30) day requirement.
- (ii) Applications for appeals shall be made by filing with the Board of Appeals a written notice of appeal which includes:
 - a. A concise written statement indicating what relief is requested and why the appeal or variance should be granted.

b. A sketch drawn to scale showing lot lines, location of existing buildings and structures and other physical features of the lot pertinent to the relief sought.

(iii) Upon receiving an application for an administrative appeal or a variance, the Code Enforcement Officer or Planning Board, as appropriate, shall transmit to the Board of Appeals all of the papers constituting the record of the decision appealed from.

(iv) The Board of Appeals shall hold a public hearing on an administrative appeal or a request for a variance within thirty-five (35) days of its receipt of a complete written application, unless this time period is extended by the parties.

(b) Decision by Board of Appeals

(i) A majority of the full voting membership of the Board shall constitute a quorum for the purpose of deciding an appeal.

(ii) The person filing the appeal shall have the burden of proof.

(iii) The Board shall decide all administrative appeals and variance appeals within thirty five (35) days after the close of the hearing, and shall issue a written decision on all appeals.

(iv) The Board of Appeals shall state the reasons and basis for its decision, including a statement of the facts found and conclusions reached by the Board. The Board shall cause written notice of its decision to be mailed or hand-delivered to the applicant and to the Department of Environmental Protection within seven (7) days of the Board's decision. Copies of written decisions of the Board of Appeals shall be given to the Planning Board, Code Enforcement Officer, and the municipal officers.

(5) Appeal to Superior Court. Except as provided by 30-A M.R.S.A. section 2691(3)(F), any aggrieved party who participated as a party during the proceedings before the Board of Appeals may take an appeal to Superior Court in accordance with State laws within forty-five (45) days from the date of any decision of the Board of Appeals.

(6) Reconsideration. In accordance with 30-A M.R.S.A. section 2691(3)(F), the Board of Appeals may reconsider any decision within forty-five (45) days of its prior decision. A request to the Board to reconsider a decision must be filed within ten (10) days of the decision that is being reconsidered. A vote to reconsider and the action taken on that reconsideration must occur and be completed within forty-five (45) days of the date of the vote on the original decision. Reconsideration of a decision shall require a positive vote of the majority of the Board members originally voting on the decision, and proper notification to the landowner, petitioner, planning board, code enforcement officer, and other parties of interest, including abutters and those who testified at the original hearing(s). The Board may conduct additional hearings and receive additional evidence and testimony.

Appeal of a reconsidered decision to Superior Court must be made within fifteen (15) days after the decision on reconsideration.

I. Enforcement

- (1) Nuisances. Any violation of this Ordinance shall be deemed to be a nuisance.
- (2) Code Enforcement Officer
 - (a) It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance. If the Code Enforcement Officer shall find that any provision of this Ordinance is being violated, he or she shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it, including discontinuance of illegal use of land, buildings or structures, or work being done, removal of illegal buildings or structures, and abatement of nuisance conditions. A copy of such notices shall be submitted to the municipal officers and be maintained as a permanent record.
 - (b) The Code Enforcement Officer shall conduct on-site inspections to insure compliance with all applicable laws and conditions attached to permit approvals. The Code Enforcement Officer shall also investigate all complaints of alleged violations of this Ordinance.
 - (c) The Code Enforcement Officer shall keep a complete record of all essential transactions of the office, including applications submitted, permits granted or denied, variances granted or denied, revocation actions, revocation of permits, appeals, court actions, violations investigated, violations found, and fees collected. On a biennial basis, a summary of this record shall be submitted to the Director of the Bureau of Land and Water Quality within the Department of Environmental Protection.
- (3) Legal Actions. When the above action does not result in the correction or abatement of the violation or nuisance condition, the Municipal Officers, upon notice from the Code Enforcement Officer, are hereby directed to institute any and all actions and proceedings, either legal or equitable, including seeking injunctions of violations and the imposition of fines, that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the municipality. The municipal officers, or their authorized agent, are hereby authorized to enter into administrative consent agreements for the purpose of eliminating violations of this Ordinance and recovering fines without Court action. Such agreements shall not allow an illegal structure or use to continue unless there is clear and convincing evidence that the illegal structure or use was constructed or conducted as a direct result of erroneous advice given by an authorized municipal official and there is no evidence that the owner acted in bad faith, or unless the removal of the structure or use will result in a threat or hazard to public health and safety or will result in substantial environmental damage.
- (4) Fines.⁷ Any person, including but not limited to a landowner, a landowner's agent or a contractor, who violates any provision or requirement of this Ordinance shall be penalized in accordance with 30-A, M.R.S.A. section 4452.

⁷ Current penalties include fines of not less than \$100 nor more than \$2500 per violation for each day that the violation continues. However, in a resource protection district the maximum penalty is increased to \$5000 (38 M.R.S.A. section 4452).

17. Definitions.

Accessory structure or use - a use or structure which is incidental and subordinate to the principal use or structure. Accessory uses, when aggregated, shall not subordinate the principal use of the lot. A deck or similar extension of the principal structure or a garage attached to the principal structure by a roof or a common wall is considered part of the principal structure.

Aggrieved party - an owner of land whose property is directly or indirectly affected by the granting or denial of a permit or variance under this Ordinance; a person whose land abuts land for which a permit or variance has been granted; or any other person or group of persons who have suffered particularized injury as a result of the granting or denial of such permit or variance.

Agriculture - the production, keeping or maintenance for sale or lease, of plants and/or animals, including but not limited to: forages and sod crops; grains and seed crops; dairy animals and dairy products; poultry and poultry products; livestock; fruits and vegetables; and ornamental and green-house products. Agriculture does not include forest management and timber harvesting activities.

Aquaculture - the growing or propagation of harvestable freshwater, estuarine, or marine plant or animal species.

Basal Area - the area of cross-section of a tree stem at 4 1/2 feet above ground level and inclusive of bark.

Basement - any portion of a structure with a floor-to-ceiling height of 6 feet or more and having more than 50% of its volume below the existing ground level.

Bed & Breakfast - a home occupation in an owner-occupied dwelling or accessory building on the same lot, in which 4 or less sleeping rooms are, for a fee, occupied by travelers and other transient guests staying for a limited duration (less than two weeks). The floor area devoted to the *Bed and Breakfast* may not exceed 50% of the total floor area of the dwelling unit or 1500 square feet of an accessory building. Breakfasts or other meals may be served only to guests. There shall be no separate ownership of rooms. A *Bed and Breakfast* must also meet all the requirements of a home occupation.

Boat Launching Facility - a facility designed primarily for the launching and landing of watercraft, and which may include an access ramp, docking area, and parking spaces for vehicles and trailers.

Bureau - State of Maine Department of Conservation's Bureau of Forestry

Campground - any area or tract of land to accommodate two (2) or more parties in temporary living quarters, including, but not limited to tents, recreational vehicles or other shelters.

Canopy - the more or less continuous cover formed by tree crowns in a wooded area.

Coastal Bluff - a steep shoreline slope formed in sediment (loose material such as clay, silt, sand and gravel) that has three feet or more vertical elevation just about the high-tide line.

Coastal wetland - all tidal and subtidal lands; all lands with vegetation present that is tolerant of salt water and occurs primarily in a salt water or estuarine habitat; and any swamp, marsh, bog, beach, flat or other contiguous low land that is subject to tidal action during the highest tide level for the year in which an activity is proposed as identified in tide tables published by the National Ocean Service. Coastal wetlands may include portions of coastal sand dunes. All areas below the maximum spring tide level are coastal

wetlands. These areas may consist of rocky ledges, sand and cobble beaches, mud flats, etc., in addition to salt marshes and salt meadows. Adjacent to tidal waters, setbacks are measured from the upland edge of the "coastal wetland."

Commercial use - the use of lands, buildings, or structures, other than a "home occupation," defined below, the intent and result of which activity is the production of income from the buying and selling of goods and/or services, exclusive of rental of residential buildings and/or dwelling units.

Cross-sectional area – the cross-sectional area of a stream or tributary stream channel is determined by multiplying the stream or tributary stream channel width by the average stream or tributary stream channel depth. The stream or tributary stream channel width is the straight line distance from the normal high-water line on one side of the channel to the normal high-water line on the opposite side of the channel. The average stream or tributary stream channel depth is the average of the vertical distances from a straight line between the normal high-water lines of the stream or tributary stream channel to the bottom of the channel.

DBH – the diameter of a standing tree measured 4.5 feet from ground level.

Development – a change in land use involving alteration of the land, water or vegetation, or the addition or alteration of structures or other construction not naturally occurring.

Dimensional requirements - numerical standards relating to spatial relationships including but not limited to setback, lot area, shore frontage and height.

Disability - any disability, infirmity, malformation, disfigurement, congenital defect or mental condition caused by bodily injury, accident, disease, birth defect, environmental conditions or illness; and also includes the physical or mental condition of a person which constitutes a substantial handicap as determined by a physician or in the case of mental handicap, by a psychiatrist or psychologist, as well as any other health or sensory impairment which requires special education, vocational rehabilitation or related services.

Disruption of shoreline integrity - the alteration of the physical shape, properties, or condition of a shoreline at any location by timber harvesting and related activities. A shoreline where shoreline integrity has been disrupted is recognized by compacted, scarified and/or rutted soil, an abnormal channel or shoreline cross-section, and in the case of flowing waters, a profile and character altered from natural conditions.

Driveway - a vehicular access-way less than five hundred (500) feet in length serving two single-family dwellings or one two-family dwelling, or less.

Emergency operations - operations conducted for the public health, safety or general welfare, such as protection of resources from immediate destruction or loss, law enforcement, and operations to rescue human beings, property and livestock from the threat of destruction or injury.

Essential services - gas, electrical or communication facilities; steam, fuel, electric power or water transmission or distribution lines, towers and related equipment; telephone cables or lines, poles and related equipment; gas, oil, water, slurry or other similar pipelines; municipal sewage lines, collection or supply systems; and associated storage tanks. Such systems may include towers, poles, wires, mains, drains, pipes, conduits, cables, fire alarms and police call boxes, traffic signals, hydrants and similar accessories, but shall not include service drops or buildings which are necessary for the furnishing of such services.

Expansion of a structure - an increase in the floor area or volume of a structure, including all extensions such as, but not limited to: attached decks, garages, porches and greenhouses.

Expansion of use - the addition of one or more months to a use's operating season; or the use of more floor area or ground area devoted to a particular use.

Family - one or more persons occupying a premises and living as a single housekeeping unit.

Floodway - the channel of a river or other watercourse and adjacent land areas that must be reserved in order to discharge the 100-year flood without cumulatively increasing the water surface elevation by more than one foot in height.

Floor area - the sum of the horizontal areas of the floor(s) of a structure enclosed by exterior walls, plus the horizontal area of any unenclosed portions of a structure such as porches and decks.

Forest management activities - timber cruising and other forest resource evaluation activities, pesticide or fertilizer application, management planning activities, timber stand improvement, pruning, regeneration of forest stands, and other similar or associated activities, exclusive of timber harvesting and the construction, creation or maintenance of roads.

Forested wetland - a freshwater wetland dominated by woody vegetation that is six (6) meters tall (approximately twenty (20) feet) or taller.

Forest Stand - a contiguous group of trees sufficiently uniform in age class distribution, composition, and structure, and growing on a site of sufficiently uniform quality, to be a distinguishable unit.

Foundation - the supporting substructure of a building or other structure, excluding wooden sills and post supports, but including basements, slabs, frostwalls, or other base consisting of concrete, block, brick or similar material.

Freshwater wetland - freshwater swamps, marshes, bogs and similar areas, other than forested wetlands, which are:

1. Of ten or more contiguous acres; or of less than 10 contiguous acres and adjacent to a surface water body, excluding any river, stream or brook, such that in a natural state, the combined surface area is in excess of 10 acres; and
2. Inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils.

Freshwater wetlands may contain small stream channels or inclusions of land that do not conform to the criteria of this definition.

Functionally water-dependent uses - those uses that require, for their primary purpose, location on submerged lands or that require direct access to, or location in, coastal or inland waters and that can not be located away from these waters. The uses include, but are not limited to commercial and recreational fishing and boating facilities, excluding recreational boat storage buildings, finfish and shellfish processing, fish storage and retail and wholesale fish marketing facilities, waterfront dock and port facilities, shipyards and boat building facilities, marinas, navigation aids, basins and channels, retaining walls, industrial uses dependent upon water-borne transportation or requiring large volumes of cooling or

processing water that can not reasonably be located or operated at an inland site, and uses that primarily provide general public access to coastal or inland waters.

Great pond - any inland body of water which in a natural state has a surface area in excess of ten acres, and any inland body of water artificially formed or increased which has a surface area in excess of thirty (30) acres except for the purposes of this Ordinance, where the artificially formed or increased inland body of water is completely surrounded by land held by a single owner,

Great pond classified GPA - any great pond classified GPA, pursuant to 38 M.R.S.A. Article 4-A Section 465-A. This classification includes some, but not all impoundments of rivers that are defined as great ponds.

Ground cover – small plants, fallen leaves, needles and twigs, and the partially decayed organic matter of the forest floor.

Harvest Area - the area where timber harvesting and related activities, including the cutting of trees, skidding, yarding, and associated road construction take place. The area affected by a harvest encompasses the area within the outer boundaries of these activities, excepting unharvested areas greater than 10 acres within the area affected by a harvest.

Height of a structure - the vertical distance between the mean original (prior to construction) grade at the downhill side of the structure and the highest point of the structure, excluding chimneys, steeples, antennas, and similar appurtenances that have no floor area.

Home occupation - A home occupation (1) shall be carried on wholly within the principal building or other structure accessory to it, or on the grounds of the property in a manner such that the effect on neighbors is minimized. The business shall be clearly incidental to and compatible with the use of the dwelling unit for residential purposes; (2) it shall be carried on by or employ members of the family residing in the dwelling unit and may employ no more than the equivalent of two (2) full-time non-family members. A non-family employee is a person not residing in that dwelling unit or not related by blood or marriage to the family; (3) it shall be clearly subordinate to the use of the dwelling unit as a residence. The floor area devoted to the home occupation may not exceed 50% of the total floor area of the dwelling unit or 1,500 square feet of an accessory building. A Bed and Breakfast, if operated as a home occupation, may have no more than four (4) guest rooms; and (4) there shall be no excessive traffic at any time. There shall be safe access and egress, and adequate off-street parking for customers. It shall not produce unreasonable glare, noise, odor, or dust.

Increase in nonconformity of a structure - any change in a structure or property which causes further deviation from the dimensional standard(s) creating the nonconformity such as, but not limited to, reduction in water body, tributary stream or wetland setback distance, increase in lot coverage, or increase in height of a structure. Property changes or structure expansions which either meet the dimensional standard or which cause no further increase in the linear extent of nonconformance of the existing structure shall not be considered to increase nonconformity. For example, there is no increase in nonconformity with the setback requirement for water bodies, wetlands, or tributary streams if the expansion extends no further into the required setback area than does any portion of the existing nonconforming structure. Hence, a structure may be expanded laterally provided that the expansion extends no closer to the water body, tributary stream, or wetland than the closest portion of the existing structure from that water body, tributary stream, or wetland. Included in this allowance are expansions which in-fill irregularly shaped structures.

Individual private campsite - an area of land which is not associated with a campground, but which is developed for repeated camping by only one group not to exceed ten (10) individuals and which involves site improvements which may include but not be limited to a gravel pad, parking area, fire place, or tent platform.

Industrial - The assembling, fabrication, finishing, manufacturing, packaging or processing of goods, or the extraction of minerals.

Institutional – a non-profit or quasi-public use, or institution such as a church, library, public or private school, hospital, or municipally owned or operated building, structure or land used for public purposes.

Land Management Road - a route or track consisting of a bed of exposed mineral soil, gravel, or other surfacing materials constructed for, or created by, the passage of motorized vehicles and used primarily for timber harvesting and related activities, including associated log yards, but not including skid trails or skid roads.

Licensed Forester - a forester licensed under 32 M.R.S.A. Chapter 76.

Lot area - The area of land enclosed within the boundary lines of a lot, minus land below the normal high-water line of a water body or upland edge of a wetland and areas beneath roads serving more than two lots.

Marina - a business establishment having frontage on navigable water and, as its principal use, providing for hire offshore moorings or docking facilities for boats, and which may also provide accessory services such as boat and related sales, boat repair and construction, indoor and outdoor storage of boats and marine equipment, bait and tackle shops and marine fuel service facilities.

Market value - the estimated price a property will bring in the open market and under prevailing market conditions in a sale between a willing seller and a willing buyer, both conversant with the property and with prevailing general price levels.

Mineral exploration - hand sampling, test boring, or other methods of determining the nature or extent of mineral resources which create minimal disturbance to the land and which include reasonable measures to restore the land to its original condition.

Mineral extraction - any operation within any twelve (12) month period which removes more than one hundred (100) cubic yards of soil, topsoil, loam, sand, gravel, clay, rock, peat, or other like material from its natural location and to transport the product removed, away from the extraction site.

Minimum lot width - the closest distance between the side lot lines of a lot. When only two lot lines extend into the shoreland zone, both lot lines shall be considered to be side lot lines.

Multi-unit residential - a residential structure containing three (3) or more residential dwelling units.

Native – indigenous to the local forests.

Non-conforming condition – non-conforming lot, structure or use which is allowed solely because it was in lawful existence at the time this Ordinance or subsequent amendment took effect.

Non-conforming lot - a single lot of record which, at the effective date of adoption or amendment of this Ordinance, does not meet the area, frontage, or width requirements of the district in which it is located.

Non-conforming structure - a structure which does not meet any one or more of the following dimensional requirements; setback, height, or lot coverage, but which is allowed solely because it was in lawful existence at the time this Ordinance or subsequent amendments took effect.

Non-conforming use - use of buildings, structures, premises, land or parts thereof which is not allowed in the district in which it is situated, but which is allowed to remain solely because it was in lawful existence at the time this Ordinance or subsequent amendments took effect.

Normal high-water line (non-tidal waters) - that line which is apparent from visible markings, changes in the character of soils due to prolonged action of the water or changes in vegetation, and which distinguishes between predominantly aquatic and predominantly terrestrial land. Areas contiguous with rivers and great ponds that support non-forested wetland vegetation and hydric soils and that are at the same or lower elevation as the water level of the river or great pond during the period of normal high-water are considered part of the river or great pond. (Tidal waters) - See Coastal Wetlands).

Operational Necessity - structure, road, or other construction required for the operation of a commercial fishing or other marine-related business, or for a public recreational activity or facility. Private recreational activities or facilities are excluded.

Person - an individual, corporation, governmental agency, municipality, trust, estate, partnership, association, two or more individuals having a joint or common interest, or other legal entity.

Piers, docks, wharves, bridges and other structures and uses extending over or beyond the normal high-water line or within a wetland.

Temporary: Structures which remain in or over the water for less than seven (7) months in any period of twelve (12) consecutive months.

Permanent: Structures which remain in or over the water for seven (7) months or more in any period of twelve (12) consecutive months.

Principal structure - a building other than one which is used for purposes wholly incidental or accessory to the use of another building or use on the same premises.

Principal use - a use other than one which is wholly incidental or accessory to another use on the same premises.

Public facility - any facility, including, but not limited to, buildings, property, recreation areas, and roads, which are owned, leased, or otherwise operated, or funded by a governmental body or public entity.

Recent floodplain soils - the following soil series as described and identified by the National Cooperative Soil Survey:

Fryeburg	Hadley	Limerick
Lovewell	Medomak	Ondawa
Alluvial	Cornish	Charles
Podunk	Rumney	Saco
Suncook	Sunday	Winooski

Recreational facility - a place designed and equipped for the conduct of sports, leisure time activities, and other customary and usual recreational activities, excluding boat launching facilities.

Recreational vehicle - a vehicle or an attachment to a vehicle designed to be towed, and designed for temporary sleeping or living quarters for one or more persons, and which may include a pick-up camper, travel trailer, tent trailer, camp trailer, and motor home. In order to be considered as a vehicle and not as a structure, the unit must remain with its tires on the ground, and must be registered with the State Division of Motor Vehicles.

Replacement system - a system intended to replace: 1.) an existing system which is either malfunctioning or being upgraded with no significant change of design flow or use of the structure, or 2.) any existing overboard wastewater discharge.

Residential dwelling unit - a room or group of rooms designed and equipped exclusively for use as permanent, seasonal, or temporary living quarters for only one family at a time, and containing cooking, sleeping and toilet facilities. The term shall include mobile homes and rental units that contain cooking, sleeping, and toilet facilities regardless of the time-period rented. Recreational vehicles are not residential dwelling units.

Residual basal area - the average of the basal area of trees remaining on a harvested site.

Riprap - rocks, irregularly shaped, and at least six (6) inches in diameter, used for erosion control and soil stabilization, typically used on ground slopes of two (2) units horizontal to one (1) unit vertical or less.

Residual Stand - a stand of trees remaining in the forest following timber harvesting and related activities

River - a free-flowing body of water including its associated floodplain wetlands from that point at which it provides drainage for a watershed of twenty five (25) square miles to its mouth. The portion of a river that is subject to tidal action is a coastal wetland.

Road - a currently regularly used and maintained route or track consisting of a bed of exposed mineral soil, gravel, asphalt, or other surfacing construction material constructed for or created by the repeated passage of motorized passenger vehicles and which is currently used regularly by repeated passage of motorized passenger vehicles to access from public roads three or more parcels of land or dwelling units separately owned or noncontiguous parcels if commonly owned but not including access ways used primarily for forest management activities and/or agricultural activities

Salt marsh - Areas of coastal wetland (most often along coastal bays) that support salt tolerant species, and where at average high tide during the growing season, the soil is irregularly inundated by tidal waters. The predominant species is saltmarsh cordgrass (*Spartina alterniflora*). More open areas often support widgeon grass, eelgrass, and Sago pondweed.

Salt meadow - Areas of a coastal wetland that support salt tolerant plant species bordering the landward side of salt marshes or open coastal water, where the soil is saturated during the growing season but which is rarely inundated by tidal water. Indigenous plant species include salt meadow cordgrass (*Spartina patens*) and black rush; common threesquare occurs in fresher areas.

Service drop - any utility line extension which does not cross or run beneath any portion of a water body provided that:

1. in the case of electric service

a. the placement of wires and/or the installation of utility poles is located entirely upon the premises of the customer requesting service or upon a roadway right-of-way; and

b. the total length of the extension is less than one thousand (1,000) feet.

2. in the case of telephone service

a. the extension, regardless of length, will be made by the installation of telephone wires to existing utility poles, or

b. the extension requiring the installation of new utility poles or placement underground is less than one thousand (1,000) feet in length.

Setback - the nearest horizontal distance from the normal high-water line of a water body or tributary stream, or upland edge of a wetland, to the nearest part of a structure, road, parking space or other regulated object or area.

Shore frontage - the length of a lot bordering on a water body or wetland measured in a straight line between the intersections of the lot lines with the shoreline.

Shoreland zone - the land area located within two hundred and fifty (250) feet, horizontal distance, of the normal high-water line of any great pond or river; within 250 feet, horizontal distance, of the upland edge of a coastal wetland, including all areas affected by tidal action; within 250 feet of the upland edge of a freshwater wetland; or within seventy-five (75) feet, horizontal distance, of the normal high-water line of a stream.

Shoreline - the normal high-water line, or upland edge of a freshwater or coastal wetland.

Skid Road or Skid Trail - a route repeatedly used by forwarding machinery or animal to haul or drag forest products from the stump to the yard or landing, the construction of which requires minimal excavation.

Slash - the residue, e.g., treetops and branches, left on the ground after a timber harvest.

Stream - a free-flowing body of water from the outlet of a great pond or the confluence of two (2) perennial streams as depicted on the most recent edition of a United States Geological Survey 7.5 minute series topographic map, or if not available, a 15-minute series topographic map, to the point where the body of water becomes a river or flows to another water body or wetland within the shoreland area.

Structure - anything built for the support, shelter or enclosure of persons, animals, goods or property of any kind, together with anything constructed or erected with a fixed location on or in the ground, exclusive of fences, and poles, wiring and other aerial equipment normally associated with service drops as well as guying and guy anchors. The term includes structures temporarily or permanently located, such as decks, patios, and satellite dishes.

Substantial start - completion of thirty (30) percent of a permitted structure or use measured as a percentage of estimated total cost.

Subsurface sewage disposal system – any system designed to dispose of waste or waste water on or beneath the surface of the earth; includes, but is not limited to: septic tanks; disposal fields; grandfathered cesspools; holding tanks; pretreatment filter, piping, or any other fixture, mechanism, or apparatus used for those purposes; does not include any discharge system licensed under 38 M.R.S.A. section 414, any surface waste water disposal system, or any municipal or quasi-municipal sewer or waste water treatment system..

Sustained slope - a change in elevation where the referenced percent grade is substantially maintained or exceeded throughout the measured area.

Tidal waters – all waters affected by tidal action during the maximum spring tide.

Timber harvesting - the cutting and removal of timber for the primary purpose of selling or processing forest products. The cutting or removal of trees in the shoreland zone on a lot that has less than two (2) acres within the shoreland zone shall not be considered timber harvesting. Such cutting or removal of trees shall be regulated pursuant to Section 15 (P), *Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting*.

Timber harvesting and related activities - timber harvesting, the construction and maintenance of roads used primarily for timber harvesting and other activities conducted to facilitate timber harvesting.

Tributary stream – means a channel between defined banks created by the action of surface water, which is characterized by the lack of terrestrial vegetation or by the presence of a bed, devoid of topsoil, containing waterborne deposits or exposed soil, parent material or bedrock; and which is connected hydrologically with other water bodies. “Tributary stream” does not include rills or gullies forming because of accelerated erosion in disturbed soils where the natural vegetation cover has been removed by human activity.

This definition does not include the term "stream" as defined elsewhere in this Ordinance, and only applies to that portion of the tributary stream located within the shoreland zone of the receiving water body or wetland. Water setback requirements apply to tributary streams within the shoreland zone.

Upland edge of a wetland - the boundary between upland and wetland. For purposes of a coastal wetland, this boundary is the line formed by the landward limits of the salt tolerant vegetation and/or the maximum spring tide level, including all areas affected by tidal action. For purposes of a freshwater wetland, the upland edge is formed where the soils are not saturated for a duration sufficient to support wetland vegetation; or where the soils support the growth of wetland vegetation, but such vegetation is dominated by woody stems that are six (6) meters (approximately twenty (20) foot) tall or taller.

Vegetation - all live trees, shrubs, and other plants including without limitation, trees both over and under 4 inches in diameter, measured at 4 1/2 feet above ground level.

Velocity zone - an area of special flood hazard extending from offshore to the inland limit of the primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources.

Volume of a structure - the volume of all portions of a structure enclosed by roof and fixed exterior walls as measured from the exterior faces of these walls and roof.

Water body - any great pond, river or stream.

Water crossing - any project extending from one bank to the opposite bank of a river, stream, tributary stream, or wetland whether under, through, or over the water or wetland. Such projects include but may not be limited to roads, fords, bridges, culverts, water lines, sewer lines, and cables as well as maintenance work on these crossings. This definition includes crossings for timber harvesting equipment and related activities.

Wetland - a freshwater or coastal wetland.

Windfirm - the ability of a forest stand to withstand strong winds and resist windthrow, wind rocking, and major breakage.

Woody Vegetation - live trees or woody, non-herbaceous shrubs.



P.O. Box 171

Medomak, Maine 04551

(207) 529-5945

SHORELAND ZONING ORDINANCE AMENDMENT

Amend Section 10, Subsection B, paragraph 3 by adding paragraph 3-A to read as follows:

3-A. TAXES. A permit may not be issued until all real estate or personal property yaxes due to the Town on the premises have been paid in full.

ENACTED: January 5, 1991

CERTIFIED BY: Sadie E. Ames

Sadie E. Ames
Town Clerk

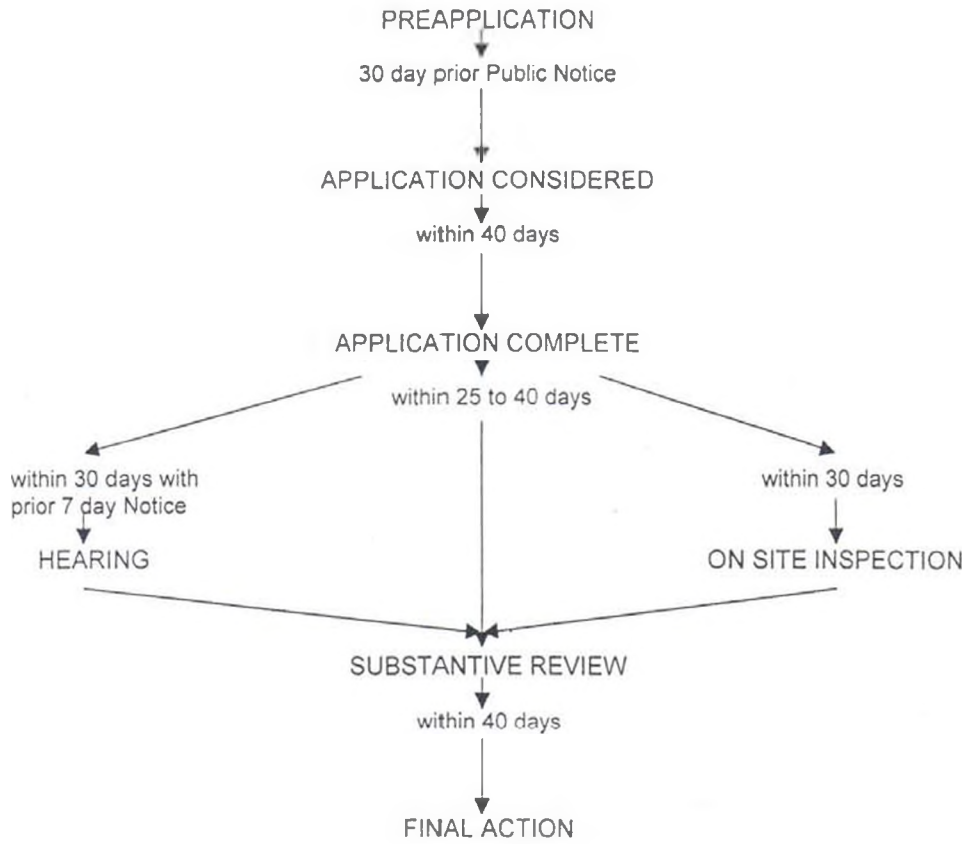
TOWN OF BREMEN
SHORELAND ZONING AMENDMENTS
HEARING DRAFT
February 15, 2001

Amend the Shoreland Zoning Ordinance in Section 15, subsection A, paragraph 1, to read as follows:

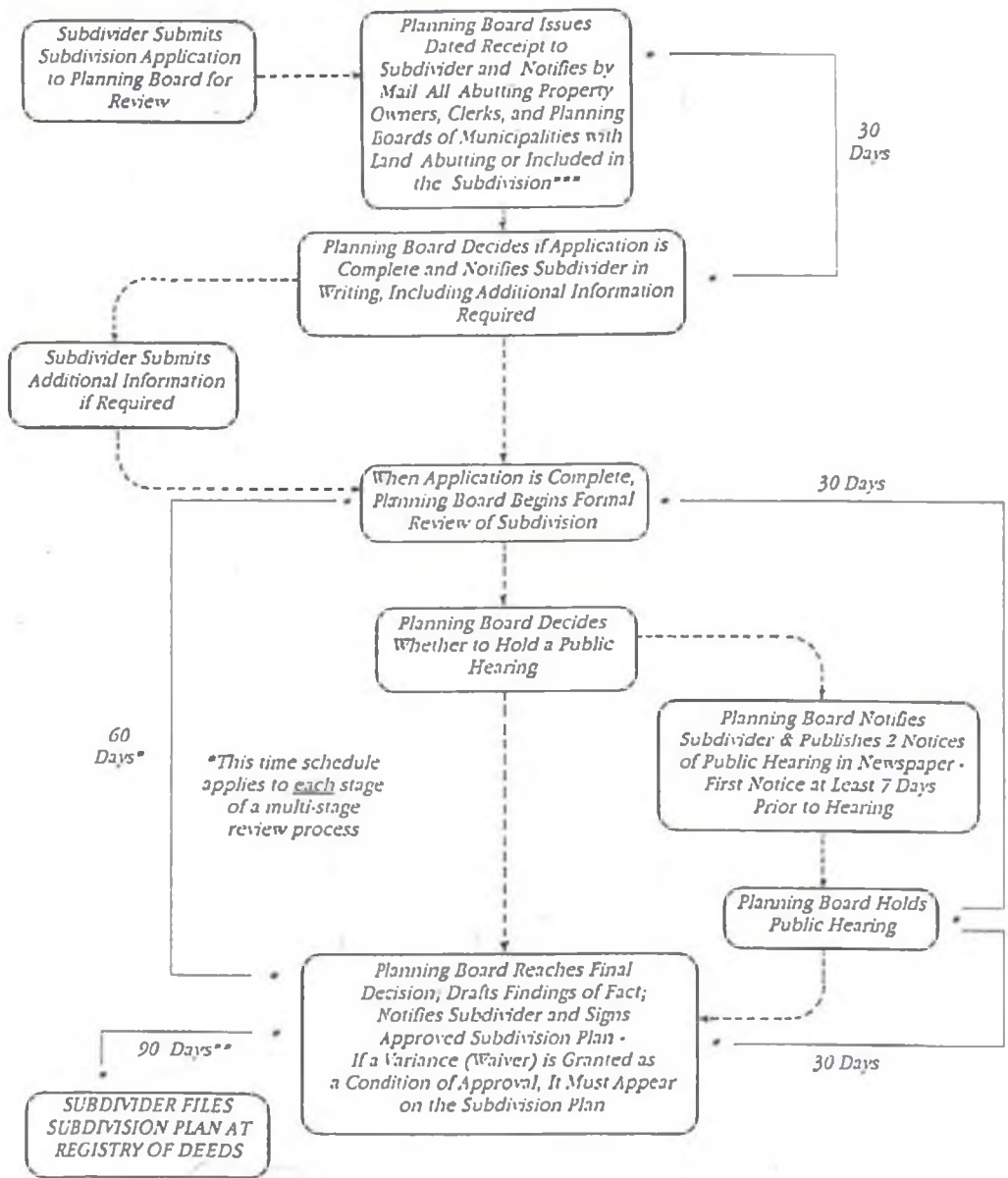
	Minimum Lot Area (square feet)	Minimum Shore <u>and Road Frontage</u> and Minimum lot Width (feet)
1. Residential per dwelling unit		
a. Within the Shoreland Zone Adjacent to Tidal Waters	40,000 <u>87,000</u>	150 <u>300</u>
b. Within the Shoreland Zone adjacent to non-tidal areas	40,000 <u>87,000</u>	200 <u>300</u>

BREMEN PLANNING BOARD

Site Plan Review Timetable



SUBDIVISION REVIEW PROCESS



*This time schedule applies to each stage of a multi-stage review process

**Any Approved Subdivision Plan Which Includes a Condition of Variance (Waiver), Must be Filed Within 90 Days of Approval or the Variance is Invalid

***If Any Portion of a Subdivision Crosses Municipal Boundaries, the Planning Boards of Each Municipality Shall Meet Jointly to Discuss the Application

————— Time Line
 - - - - - Action Line

**SUBDIVISION ORDINANCE
OF THE
TOWN OF BREMEN, MAINE**

Bremen Ordinance Review Committee

January 17, 2012

ENACTED MARCH 31, 2012

CERTIFIED BY:



BREMEN TOWN CLERK

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**SUBDIVISION ORDINANCE
OF THE
TOWN OF BREMEN, MAINE**

**CHAPTER I
DEFINITIONS**

Unless specifically defined below, words and phrases used in this ordinance shall have the same meaning as they have at common law and to give this Ordinance its most reasonable application. Words used in the present tense include the future, the singular number includes the plural, and the plural number includes the singular. A word indicating a specific gender is not limited to that gender, but includes both genders. The word "may" is permissive; "shall" is mandatory and not discretionary. In the event that a word defined in this chapter is defined in some other way in another specific chapter, the specific chapter definition shall apply only in that chapter, with the definition set forth in this chapter applying to all other chapters in this ordinance.

Accessory structure or use - A use or structure which is incidental and subordinate to the principal use or structure. Accessory uses, when aggregated, shall not subordinate the principal use of the lot. A deck or similar extension of the principal structure or a garage attached to the principal structure by a roof or a common wall is considered part of the principal structure.

Aggrieved party - An owner of land whose property is directly or indirectly affected by the granting or denial of a permit or variance under this Ordinance; a person whose land abuts land for which a permit or variance has been granted; or any other person or group of persons who have suffered particularized injury as a result of the granting or denial of such permit or variance.

Agriculture - The production, keeping or maintenance for sale or lease, of plants and/or animals, including but not limited to: forages and sod crops; grains and seed crops; dairy animals and dairy products; poultry and poultry products; livestock; fruits and vegetables; and ornamental and green-house products. Agriculture does not include forest management and timber harvesting activities.

Aquaculture - The growing or propagation of harvestable freshwater, estuarine, or marine plant or animal species.

Applicant - The individual, firm, partnership, corporation, trust or other legal entity that files an application or requests approval of a plan, a permit or other action under this ordinance.

Application - Includes a narrative record of required actions performed, copies of required information and documents, together with drawing(s), requesting approval of a plan, a permit or other action.

Antenna - A device for radiating or receiving electromagnetic waves and which is situated on a permanent foundation.

Affordable Housing – A dwelling unit that may be purchased or leased by a household with low or moderate income. As used in this ordinance, the term "affordable housing" has the same meaning as in Maine Revised Statutes, Title 30-A section 5002(2) as amended.

Basal Area - The area of cross-section of a tree stem at 4 1/2 feet above ground level and inclusive of bark.

Bed & Breakfast – A home occupation in an owner-occupied dwelling or accessory building on the same lot, in which 4 or less sleeping rooms are, for a fee, occupied by travelers and other transient guests staying for a limited duration (less than two weeks). The floor area devoted to the *Bed and Breakfast* may not exceed 50% of the total floor area of the dwelling unit or 1500 square feet of an accessory building. Breakfasts or other meals may be served only to guests. There shall be no separate ownership of rooms. A *Bed and Breakfast* must also meet all the requirements of a home occupation.

Boat Launching Facility - A facility designed primarily for the launching and landing of watercraft, and which may include an access ramp, docking area, and parking spaces for vehicles and trailers.

Buildable Land_- That land in a parcel which is left over after all deductions made under the Net Residential area or acreage calculations have been made.

Building Height – The vertical distance between the highest point of the roof and the lowest finished grade of the ground adjoining the building. The lowest finished grade level is that level that may be achieved by the filing of land at not more than a 2 to 1 slope. Where retaining walls are required to be constructed within 20 feet of a building, the wall shall be considered to be part of the building and the height of the building shall be measured from the lowest finished grade level adjoining the wall.

Bureau – State Department of Conservation's Bureau of Forestry

Campgrounds_– Any premises established for over-night use for the purpose of temporary camping, and for which a fee is charged. It includes tenting sites and sites for recreational vehicles but not cabins. It does not include a noncommercial private campsite.

Canopy – The more or less continuous cover formed by tree crowns in a wooded area.

Central Sewage System_- A wastewater disposal system that receives wastewater from two or more structures. A "centralized" system may have a private sewer collection system flowing into a larger septic tank or it may have building drains flowing into individual smaller septic tanks. The wastewater, after receiving primary treatment in the

septic tank or tanks may be pumped or gravity fed to a single subsurface disposal field or several fields on a common land area.

Cluster Subdivision – A subdivision in which lot sizes are reduced below those normally required in the district in which the development is located in return for the provision of permanent open space owner in common by the lot/unit owners, the Town or a land conservation organization. Clustering shall not be used to increase the overall net residential density of the development.

Coastal Bluff - A steep shoreline slope formed in sediment (loose material such as clay, silt, sand and gravel) that has three feet or more vertical elevation just about the high-tide line.

Coastal wetland - All tidal and subtidal lands; all lands with vegetation present that is tolerant of salt water and occurs primarily in a salt water or estuarine habitat; and any swamp, marsh, bog, beach, flat or other contiguous low land that is subject to tidal action during the highest tide level for the year in which an activity is proposed as identified in tide tables published by the National Ocean Service. Coastal wetlands may include portions of coastal sand dunes. All areas below the maximum spring tide level are coastal wetlands. These areas may consist of rocky ledges, sand and cobble beaches, mud flats, etc., in addition to salt marshes and salt meadows. Adjacent to tidal waters, setbacks are measured from the upland edge of the "coastal wetland."

Code Enforcement Officer (CEO) – A person appointed by the Selectmen to enforce this Ordinance. Reference to the Code Enforcement Officer shall be construed to include the Building Inspector and Plumbing Inspector, where applicable.

Commercial Use – The use of land, buildings or structures intending or resulting in the production of income from the buying or selling of goods and services. It shall include professional services or establishments, retail or wholesale sale or storage or other commercial use. It shall also include the rental of three (3) or more dwelling units on a lot. It does not include "home occupation" or industrial uses.

Complete Application – An application with all required actions performed and all required information submitted so the Planning Board can reach a decision.

Comprehensive Plan - Any part or element of the overall plan and policy for development of the Town as defined in the Maine Revised Statutes Title 30-A, section 4314, and as enacted on November 18, 2004, and all amendments and revisions thereto.

Construction Drawings – Drawings showing the location, profile, grades, size and type of drains, sewers, water main, underground power and telephone ducts, pavements, cross section of streets, miscellaneous structures, etc.

Contiguous Lots – Lots which adjoin at any line or point, or that would adjoin except for

separation by a body of water less than 15 feet wide.

Construction – Includes built, erected, altered, reconstructed or any physical operations on the premises which make ready for construction. Excavation, fill, paving, making a drainage system, clearing of vegetation and the like shall be considered as part of construction.

Cross-sectional area – The cross-sectional area of a stream or tributary stream channel is determined by multiplying the stream or tributary stream channel width by the average stream or tributary stream channel depth. The stream or tributary stream channel width is the straight line distance from the normal high-water line on one side of the channel to the normal high-water line on the opposite side of the channel. The average stream or tributary stream channel depth is the average of the vertical distances from a straight line between the normal high-water lines of the stream or tributary stream channel to the bottom of the channel.

Curb Cut – The opening along the curb line or street right-of-way line at the point at which vehicles may enter or leave the street.

DBH – The diameter of a standing tree measured 4.5 feet from ground level.

Development – Any site improvement or change, including buildings, landscaping, parking areas and streets or private rights-of-way.

Dimensional requirements - Numerical standards relating to spatial relationships including but not limited to setback, lot area, shore frontage and height.

Disability - Any disability, infirmity, malformation, disfigurement, congenital defect or mental condition caused by bodily injury, accident, disease, birth defect, environmental conditions or illness; and also includes the physical or mental condition of a person which constitutes a substantial handicap as determined by a physician or in the case of mental handicap, by a psychiatrist or psychologist, as well as any other health or sensory impairment which requires special education, vocational rehabilitation or related services.

Disruption of shoreline integrity - The alteration of the physical shape, properties, or condition of a shoreline at any location by timber harvesting and related activities. A shoreline where shoreline integrity has been disrupted is recognized by compacted, scarified and/or rutted soil, an abnormal channel or shoreline cross-section, and in the case of flowing waters, a profile and character altered from natural conditions.

Driveway – Access route or right-of-way to one or two single family dwellings.

Earth - Earth means soil, loam, peat, clay, sand, gravel, rock and stone or other material or organic deposits, other than vegetation, in, on or from the land, wetlands or water bodies.

Earth Moving Activity – Activity involving the moving of earth. Moving means the

removal and movement of earth from one place to another. It includes ancillary activities such as lagooning, dredging, excavation, filling and grading.

Easement – The authorization of a property owner for the use by another, and for a specified purpose, of any designated part of his property.

Emergency operations - Operations conducted for the public health, safety or general welfare, such as protection of resources from immediate destruction or loss, law enforcement, and operations to rescue human beings, property and livestock from the threat of destruction or injury.

Engineer – Consulting engineer licensed by the State of Maine.

Essential services - Gas, electrical or communication facilities; steam, fuel, electric power or water transmission or distribution lines, towers and related equipment; telephone cables or lines, poles and related equipment; gas, oil, water, slurry or other similar pipelines; municipal sewage lines, collection or supply systems; and associated storage tanks. Such systems may include towers, poles, wires, mains, drains, pipes, conduits, cables, fire alarms and police call boxes, traffic signals, hydrants and similar accessories, but shall not include service drops or buildings which are necessary for the furnishing of such services.

Expansion of a structure - An increase in the floor area or volume of a structure, including all extensions such as, but not limited to: attached decks, garages, porches and greenhouses.

Expansion of use - The addition of one or more months to a use's operating season; or the use of more floor area or ground area devoted to a particular use.

Final Subdivision Plan – The final drawings, on which the Applicant's plan of the subdivision is presented to the Board for approval and which, if approved, shall be filed for record with the Town and the Lincoln County Registry of Deeds.

Floodway - The channel of a river or other watercourse and adjacent land areas that must be reserved in order to discharge the 100-year flood without cumulatively increasing the water surface elevation by more than one foot in height.

Floor area - The sum of the horizontal areas of the floor(s) of a structure enclosed by exterior walls, plus the horizontal area of any unenclosed portions of a structure such as porches and decks.

Forest management activities - Timber cruising and other forest resource evaluation activities, pesticide or fertilizer application, management planning activities, timber stand improvement, pruning, regeneration of forest stands, and other similar or associated activities, exclusive of timber harvesting and the construction, creation or maintenance of roads.

Forested wetland - A freshwater wetland dominated by woody vegetation that is six (6) meters tall (approximately twenty (20) feet) or taller.

Forest Stand - A contiguous group of trees sufficiently uniform in age class distribution, composition, and structure, and growing on a site of sufficiently uniform quality, to be a distinguishable unit.

Foundation - The supporting substructure of a building or other structure, excluding wooden sills and post supports, but including basements, slabs, frostwalls, or other base consisting of concrete, block, brick or similar material.

Freshwater wetland - Freshwater swamps, marshes, bogs and similar areas, other than forested wetlands, which are:

1. Of ten or more contiguous acres; or of less than 10 contiguous acres and adjacent to a surface water body, excluding any river, stream or brook, such that in a natural state, the combined surface area is in excess of 10 acres; and
2. Inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils.

Freshwater wetlands may contain small stream channels or inclusions of land that do not conform to the criteria of this definition.

Great pond - Any inland body of water which in a natural state has a surface area in excess of ten acres, and any inland body of water artificially formed or increased which has a surface area in excess of thirty (30) acres except for the purposes of this Ordinance, where the artificially formed or increased inland body of water is completely surrounded by land held by a single owner,

Great pond classified GPA - Any great pond classified GPA, pursuant to Maine Revised Statutes, Title 38 Article 4-A Section 465-A. This classification includes some, but not all impoundments of rivers that are defined as great ponds.

Ground cover – Small plants, fallen leaves, needles and twigs, and the partially decayed organic matter of the forest floor.

Harvest Area - The area where timber harvesting and related activities, including the cutting of trees, skidding, yarding, and associated road construction take place. The area affected by a harvest encompasses the area within the outer boundaries of these activities, excepting unharvested areas greater than 10 acres within the area affected by a harvest.

Height of a structure - The vertical distance between the mean original (prior to construction) grade at the downhill side of the structure and the highest point of the structure, excluding chimneys, steeples, antennas, and similar appurtenances that have no floor area.

Home occupation - A home occupation:

(1) Shall be carried on wholly within the principal building or other structure accessory to it, or on the grounds of the property in a manner such that the effect on neighbors is minimized. The business shall be clearly incidental to and compatible with the use of the dwelling unit for residential purposes;

(2) It shall be carried on by or employ members of the family residing in the dwelling unit and may employ no more than the equivalent of two (2) full-time non-family members. A non-family employee is a person not residing in that dwelling unit or not related by blood or marriage to the family;

(3) It shall be clearly subordinate to the use of the dwelling unit as a residence. The floor area devoted to the home occupation may not exceed 50% of the total floor area of the dwelling unit or 1,500 square feet of an accessory building. A Bed and Breakfast, if operated as a home occupation, may have no more than four (4) guest rooms;

(4) There shall be no excessive traffic at any time;

(5) There shall be safe access and egress, and adequate off-street parking for customers; and

(6) It shall not produce unreasonable glare, noise, odor, or dust.

Increase in nonconformity of a structure - Any change in a structure or property which causes further deviation from the dimensional standard(s) creating the nonconformity such as, but not limited to, reduction in water body, tributary stream or wetland setback distance, increase in lot coverage, or increase in height of a structure. Property changes or structure expansions which either meet the dimensional standard or which cause no further increase in the linear extent of nonconformance of the existing structure shall not be considered to increase nonconformity. For example, there is no increase in nonconformity with the setback requirement for water bodies, wetlands, or tributary streams if the expansion extends no further into the required setback area than does any portion of the existing nonconforming structure. Hence, a structure may be expanded laterally provided that the expansion extends no closer to the water body, tributary stream, or wetland than the closest portion of the existing structure from that water body, tributary stream, or wetland. Included in this allowance are expansions which in-fill irregularly shaped structures.

Individual private campsite - An area of land which is not associated with a campground, but which is developed for repeated camping by only one group not to exceed ten (10) individuals and which involves site improvements which may include but not be limited to a gravel pad, parking area, fire place, or tent platform.

Industrial - The assembling, fabrication, finishing, manufacturing, packaging or processing of goods, or the extraction of minerals.

Institutional – A non-profit or quasi-public use, or institution such as a church, library, public or private school, hospital, or municipally owned or operated building, structure or land used for public purposes.

Land Management Road - A route or track consisting of a bed of exposed mineral soil, gravel, or other surfacing materials constructed for, or created by, the passage of motorized vehicles and used primarily for timber harvesting and related activities, including associated log yards, but not including skid trails or skid roads.

Legislative Body - Town Meeting.

Licensed Forester - A forester licensed under Maine Revised Statutes, Title 32 Chapter 76.

Lot area - The area of land enclosed within the boundary lines of a lot, minus land below the normal high-water line of a water body or upland edge of a wetland and areas beneath roads serving more than two lots.

Market value - The estimated price a property will bring in the open market and under prevailing market conditions in a sale between a willing seller and a willing buyer, both conversant with the property and with prevailing general price levels.

Mineral exploration - Hand sampling, test boring, or other methods of determining the nature or extent of mineral resources which create minimal disturbance to the land and which include reasonable measures to restore the land to its original condition.

Mineral extraction - Any operation within any twelve (12) month period which removes more than one hundred (100) cubic yards of soil, topsoil, loam, sand, gravel, clay, rock, peat, or other like material from its natural location and to transport the product removed, away from the extraction site.

Minimum lot width - The closest distance between the side lot lines of a lot. When only two lot lines extend into the shoreland zone, both lot lines shall be considered to be side lot lines.

Multi-unit residential - A residential structure containing three (3) or more residential dwelling units.

Native – Vegetation that is indigenous to the local forests.

Net Residential Area or Acreage – The area of a parcel, which is suitable for development as determined by the Planning Board, shall be calculated by subtracting the following from the total or gross acreage of a parcel:

1. Total acreage that is used for street and sidewalk rights-of-way.
2. Portions of the parcel containing slopes over twenty (20) percent.
3. Portions of the parcel shown to be within the 100-year flood plain and floodway as designated on Federal Emergency Management Agency (FEMA) maps.
4. Portions of the parcel located in the Resource Protection District.
5. Portions of the parcel which are unsuitable for development in their natural state due to drainage or subsoil conditions, including, but not limited to:
 - A. Water table at or near the surface for all or part of the year.
 - B. Unstable soils such as Sebago Mucky Peat.
6. Portions of the parcel covered by surface waterbodies.

Net Residential Density - Net Residential Density shall mean the number of units per net residential acre. Non-conforming condition – Non-conforming lot, structure or use which is allowed solely because it was in lawful existence at the time this Ordinance or subsequent amendment took effect.

Non-conforming lot - A single lot of record which, at the effective date of adoption or amendment of this Ordinance, does not meet the area, frontage, or width requirements of the district in which it is located.

Non-conforming structure - A structure which does not meet any one or more of the following dimensional requirements; setback, height, or lot coverage, but which is allowed solely because it was in lawful existence at the time this Ordinance or subsequent amendments took effect.

Non-conforming use - Use of buildings, structures, premises, land or parts thereof which is not allowed in the district in which it is situated, but which is allowed to remain solely because it was in lawful existence at the time this Ordinance or subsequent amendments took effect.

Normal high-water line (non-tidal waters) - The line which is apparent from visible markings, changes in the character of soils due to prolonged action of the water or changes in vegetation, and which distinguishes between predominantly aquatic and predominantly terrestrial land. Areas contiguous with rivers and great ponds that support non-forested wetland vegetation and hydric soils and that are at the same or lower elevation as the water level of the river or great pond during the period of normal high-water are considered part of the river or great pond. (Tidal waters) - See Coastal Wetlands).

Official Map - The map adopted by the Town, showing the location of public property, roads and approved subdivisions; and any revisions thereto adopted by the Town or additions thereto resulting from the approval of subdivision plans by the Town.

Open Space - Land set aside for passive and/or active use, including recreation purposes, preservation of environmentally sensitive areas, undevelopable land and buffers.

Official Submittal Date - The time of submission of a Pre-application Plan, Preliminary Plan or Final Plan shall be considered the submission date of the application for such plan approval to the Board, complete and accompanied by any required fee and all data required by these Standards.

Operational Necessity – A structure, road, or other construction required for the operation of a commercial fishing or other marine-related business, or for a public recreational activity or facility. Private recreational activities or facilities are excluded.

Person - Includes a firm, association, organization, partnership, trust, company or corporation as well as an individual.

Piers, docks, wharves, bridges and other structures. Structures and uses extending over or beyond the normal high-water line or within a wetland. They can be temporary or permanent:

1. **Temporary:** Structures which remain in or over the water for less than seven (7) months in any period of twelve (12) consecutive months.
2. **Permanent:** Structures which remain in or over the water for seven (7) months or more in any period of twelve (12) consecutive months.

Planning Board - The Planning Board of the Town created under Maine Revised Statutes, Title 30-A section 3001 as amended.

Preliminary Subdivision Plan - The preliminary drawing indicating the proposed layout of the subdivisions to be submitted to the Board for its consideration.

Principal structure - A building other than one which is used for purposes wholly incidental or accessory to the use of another building or use on the same premises.

Principal use - A use other than one which is wholly incidental or accessory to another use on the same premises.

Public facility - Any facility, including, but not limited to, buildings, property, recreation areas, and roads, which are owned, leased, or otherwise operated, or funded by a governmental body or public entity.

Recent floodplain soils - The following soil series as described and identified by the National Cooperative Soil Survey:

Fryeburg	Hadley	Limerick
Lovell	Medomak	Ondawa
Alluvial	Cornish	Charles
Podunk	Rumney	Saco
Suncook	Sunday	Winooski

Recreational facility - A place designed and equipped for the conduct of sports, leisure time activities, and other customary and usual recreational activities, excluding boat launching facilities.

Recreational vehicle - A vehicle or an attachment to a vehicle designed to be towed, and designed for temporary sleeping or living quarters for one or more persons, and which may include a pick-up camper, travel trailer, tent trailer, camp trailer, and motor home. In order to be considered as a vehicle and not as a structure, the unit must remain with its tires on the ground, and must be registered with the State Division of Motor Vehicles.

Replacement system - A system intended to replace: 1.) an existing system which is either malfunctioning or being upgraded with no significant change of design flow or use of the structure, or 2.) any existing overboard wastewater discharge.

Residential dwelling unit or dwelling unit - A room or group of rooms designed and equipped exclusively for use as permanent, seasonal, or temporary living quarters for only one family at a time, and containing cooking, sleeping and toilet facilities. The term shall include mobile homes and rental units that contain cooking, sleeping, and toilet facilities regardless of the time-period rented. Recreational vehicles are not residential dwelling units.

Residual basal area - The average of the basal area of trees remaining on a harvested site.

Residual Stand - A stand of trees remaining in the forest following timber harvesting and related activities

Resubdivision - The division of an existing subdivision.

Riprap - Rocks, irregularly shaped, and at least six (6) inches in diameter, used for erosion control and soil stabilization, typically used on ground slopes of two (2) units horizontal to one (1) unit vertical or less.

River - A free-flowing body of water including its associated floodplain wetlands from that point at which it provides drainage for a watershed of twenty five (25) square miles to its mouth. The portion of a river that is subject to tidal action is a coastal wetland.

Road – A currently regularly used and maintained route or track requiring an E-911 name designation under State law, and consisting of a bed of exposed mineral soil, gravel, asphalt or other surfacing construction material constructed for or created by the repeated passage of vehicles and which is currently used regularly by motorized passenger vehicles to access from a public road to three or more parcels of land or dwelling units separately owned or noncontiguous parcels if commonly owned; but not including access ways used primarily for forest management activities or agricultural activities. A road may be a privately owned right-of-way or easement, including roads within subdivisions.

Road Classifications:

1. Arterial Road: A major thoroughfare which serves as a major traffic way for travel to or through the municipality. The following shall be considered arterial roads:

Route 32 (Waldoboro Rd or Round Pond Rd)
Biscay Rd (Damariscotta Rd)
Turner Rd
Nobleboro Rd (Duck Puddle Rd)

2. Collector Road: A road servicing (15) or more lots or dwelling units, or roads which serve as feeder roads to arterial roads. The following publicly owned roads shall be considered collector roads:

Fogler Rd
Heath Rd
Keene Neck Rd
Medomak Rd
Muscongus Rd
Rial Herald Rd
Shore Rd
Storer Rd
Any other road meeting this definition, whether public or private

3. Minor Road: A road servicing less than fifteen (15) lots or dwelling units. The following publicly owned roads shall be considered minor roads:

Collomore Rd
Creek Rd
Town Landing Rd
Town Landing Rd on Bremen Long Island

Marble Rd

Any other road meeting this definition, whether public or private

Road Frontage – The distance in feet between the points of intersection of side lot lines with the street or road.

Sand and Gravel Aquifer - Areas identified on sand and gravel aquifer maps published by the Maine Geological Survey which are favorable for the development of ground water supplies from sand and gravel deposits.

Salt marsh - Areas of coastal wetland (most often along coastal bays) that support salt tolerant species, and where at average high tide during the growing season, the soil is irregularly inundated by tidal waters. The predominant species is saltmarsh cordgrass (*Spartina alterniflora*). More open areas often support widgeon grass, eelgrass, and Sago pondweed.

Salt meadow - Areas of a coastal wetland that support salt tolerant plant species bordering the landward side of salt marshes or open coastal water, where the soil is saturated during the growing season but which is rarely inundated by tidal water. Indigenous plant species include salt meadow cordgrass (*Spartina patens*) and black rush; common threesquare occurs in fresher areas.

Service drop - Any utility line extension which does not cross or run beneath any portion of a water body provided that:

1. In the case of electric service

- a. the placement of wires and/or the installation of utility poles is located entirely upon the premises of the customer requesting service or upon a roadway right-of-way; and
- b. the total length of the extension is less than one thousand (1,000) feet.

2. In the case of telephone service

- a. the extension, regardless of length, will be made by the installation of telephone wires to existing utility poles, or
- b. the extension requiring the installation of new utility poles or placement underground is less than one thousand (1,000) feet in length.

Setback - The nearest horizontal distance from the normal high-water line of a water body or tributary stream, or upland edge of a wetland, to the nearest part of a structure, road, parking space or other regulated object or area.

Shore frontage - The length of a lot bordering on a water body or wetland measured in a straight line between the intersections of the lot lines with the shoreline.

Shoreland zone - The land area located within two hundred and fifty (250) feet, horizontal distance, of the normal high-water line of any great pond or river; within 250 feet, horizontal distance, of the upland edge of a coastal wetland, including all areas affected by tidal action; within 250 feet of the upland edge of a freshwater wetland; or within seventy-five (75) feet, horizontal distance, of the normal high-water line of a stream.

Shoreline – The normal high-water line, or upland edge of a freshwater or coastal wetland.

Sidewalk - A paved way for pedestrian traffic, which is constructed adjacent to a road.

Skid Road or Skid Trail – A route repeatedly used by forwarding machinery or animal to haul or drag forest products from the stump to the yard or landing, the construction of which requires minimal excavation.

Slash - The residue, e.g., treetops and branches, left on the ground after a timber harvest.

Stream - A free-flowing body of water from the outlet of a great pond or the confluence of two (2) perennial streams as depicted on the most recent edition of a United States Geological Survey 7.5 minute series topographic map, or if not available, a 15-minute series topographic map, to the point where the body of water becomes a river or flows to another water body or wetland within the shoreland area.

Structure - Anything built for the support, shelter or enclosure of persons, animals, goods or property of any kind, together with anything constructed or erected with a fixed location on the ground. For the purposes of this Ordinance, fences and structures such as doghouses, treehouses designed for children's use and bus shelters shall not be considered structures. Antennas, windmills and communication towers shall be considered structures.

Subdivision - The division of a tract or parcel of land as defined in Title 30-A § 4401 et. seq., as amended.

Subdivision, Major - A subdivision containing more than four (4) lots or dwelling units or any subdivision containing a proposed public road.

Subdivision, Minor – A subdivision containing not more than four (4) lots or dwelling units.

Substantial start - Completion of thirty (30) percent of a permitted structure or use measured as a percentage of estimated total cost.

Subsurface sewage disposal system – Any system designed to dispose of waste or waste water on or beneath the surface of the earth; includes, but is not limited to: septic tanks; disposal fields; grandfathered cesspools; holding tanks; pretreatment filter, piping, or any other fixture, mechanism, or apparatus used for those purposes; does not include any discharge system licensed under Maine Revised Statutes, Title 38 section 414, any surface waste water disposal system, or any municipal or quasi-municipal sewer or waste water treatment system..

Sustained slope - A change in elevation where the referenced percent grade is substantially maintained or exceeded throughout the measured area.

Tidal waters – All waters affected by tidal action during the maximum spring tide.

Tributary stream – A channel between defined banks created by the action of surface water, which is characterized by the lack of terrestrial vegetation or by the presence of a bed, devoid of topsoil, containing waterborne deposits or exposed soil, parent material or bedrock; and which is connected hydrologically with other water bodies. "Tributary stream" does not include rills or gullies forming because of accelerated erosion in disturbed soils where the natural vegetation cover has been removed by human activity. This definition also does not include the term "stream" as defined elsewhere in this Ordinance, and only applies to that portion of the tributary stream located within the shoreland zone of the receiving water body or wetland. Water setback requirements apply to tributary streams within the shoreland zone.

Turnout: An area on either side of a one-lane road or driveway in which a vehicle may temporarily pull over to allow the passage of another vehicle on the road or driveway.

Turnaround: An area at the end of a driveway or dead-end road which loops around back to the driveway or road, or is wide enough for vehicles to turn around in.

Upland edge of a wetland - The boundary between upland and wetland. For purposes of a coastal wetland, this boundary is the line formed by the landward limits of the salt tolerant vegetation and/or the maximum spring tide level, including all areas affected by tidal action. For purposes of a freshwater wetland, the upland edge is formed where the soils are not saturated for a duration sufficient to support wetland vegetation; or where the soils support the growth of wetland vegetation, but such vegetation is dominated by woody stems that are six (6) meters (approximately twenty (20) foot) tall or taller.

Utilities: All services required by a dwelling unit, including: electricity, telephone, internet, water, sewer disposal, and cable television.

Velocity zone - An area of special flood hazard extending from offshore to the inland limit of the primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources.

Volume of a structure - The volume of all portions of a structure enclosed by roof and fixed exterior walls as measured from the exterior faces of these walls and roof.

Waterbody: A fresh water body with a surface area greater than ten (10) acres; or any salt water body.

Water crossing - Any project extending from one bank to the opposite bank of a river, stream, tributary stream, or wetland whether under, through, or over the water or wetland. Such projects include but may not be limited to roads, fords, bridges, culverts, water lines, sewer lines, and cables as well as maintenance work on these crossings. This definition includes crossings for timber harvesting equipment and related activities.

Wetland - A freshwater or coastal wetland.

Woody Vegetation - Live trees or woody, non-herbaceous shrubs.

CHAPTER II
SUBDIVISION
Subchapter 1
GENERAL PROVISIONS

A. AUTHORITY

The purpose of this Ordinance shall be to assure the comfort, convenience, safety, health and welfare of the people, to protect the environment and to promote the development of an economically sound and stable community. It is further noted that this ordinance is consistent with the Town of Bremen, Maine, Comprehensive Plan adopted by a vote of the citizens of the Town of Bremen November 18, 2004.

1. This Ordinance has been prepared in accordance with the provisions of the Maine Revised Statutes Title 30-A, §§ 4401-4407 and all amendments thereto.
2. This Ordinance shall be known and may be cited as "Subdivision Ordinance of the Town of Bremen, Maine."
3. The provisions of this Ordinance shall pertain to all land within the boundaries of the Town of Bremen, Maine.

B. EFFECTIVE DATE

Ordinance is effective on its adoption on March ____ 2012. On enactment of this Ordinance, the Town's Subdivision Ordinance, as enacted on July 18, 1988, and amended on February 15, 2001, and April 2, 2005, is hereby repealed.

C. ORDINANCE APPLICATION

1. No person, corporation or other legal entity may sell, lease, develop, build upon or convey or offer or agree to do so, any land or dwelling unit in a subdivision that has not been approved by the Planning Board. No plan of land within the boundaries of the Town which would constitute a subdivision shall be filed or recorded in the Lincoln County Registry of Deeds until a Final Plan thereof shall have been approved by the Planning Board.
2. A person, corporation or other legal entity who sells, leases, builds upon or conveys, offers or agrees to do so any land in a subdivision which has not been approved as required by this Ordinance shall be punished by a fine as set by the Selectmen for each such conveyance, offering or agreement. The Town may institute proceedings to enjoin the violation of this Ordinance.
3. No public utility of any kind shall serve any lot in a subdivision which has not been approved by the Planning Board.

4. Creating a subdivision without Board approval is a violation of law, as is the grading or construction of roads, grading of land or lots, grading or construction of driveways or construction of buildings within the subdivision, until such time as such subdivision shall have been approved and endorsed as provided in this Ordinance, and until the original copy of the Final Plan so approved and endorsed has been duly recorded in the Lincoln County Registry of Deeds.

D. OTHER STATUTES

Whenever the requirements of this Ordinance are at variance with the requirements of other statutes, codes or ordinances, the most restrictive or more restrictive standard shall govern.

Approval under one chapter or provision of this Ordinance does not exempt the Applicant with complying with other applicable chapters, or local, state or federal requirements.

E. SEVERABILITY

In the event that any chapter, section, subsection or portion of this Ordinance is declared to be invalid, such decision shall not be deemed to affect the validity of any other section, subsections or portions of this Ordinance.

F. AMENDMENTS

This Ordinance may be amended, supplemented or repealed in accordance with the provisions of Maine Law. The Ordinance Review Committee or the Planning Board may consider and propose amendments, and present those amendments to the Selectmen for presentation to a regular or special Town meeting, for the Town's consideration. Prior to submitting a proposed amendment to the Selectmen, the Committee or Board shall hold a public hearing on the proposal.

G. FILING

A copy of this Ordinance and any amendments hereto shall be filed with the Town Clerk. Copies shall be available to any member of the public for a fee, to be established by the Selectmen. These monies shall go into the Planning Board administration account.

SUB CHAPTER 2 PROCEDURE

A. ADMINISTRATION

The Planning Board hereinafter called the Board, shall administer this Ordinance.

B. BOARD PROCEDURE

1. Time and Copies

The application shall be submitted to the Town at least two (2) weeks prior to the Planning Board meeting during which the Applicant wishes to be heard. Failure to do so shall require re-submission of the application. The application and all documents shall be submitted in an original and ten (10) copies.

2. Attendance

The Applicant, or the Applicant's duly authorized representative, shall attend all meetings of the Board at which the application is to be considered.

C. PRE-APPLICATION

Prior to submitting an application, the Applicant shall submit for informal discussion a Sketch Plan and other data relative to the proposed subdivision, which may be of assistance to the Board in making its determination.

1. Sketch Plan

The Sketch Plan shall show, in simple sketch form, neatly done and to scale, the proposed layout of streets, lots and other features in relation to existing conditions. It may be a free-hand, penciled sketch of the parcel. The Sketch Plan shall include:

- a. Boundary lines
- b. Date, North point, graphic map scale (show on plat).
- c. Location of parcels to be dedicated to common use, and the location of all natural features or site elements to be preserved.
- d. Easements - location, width and purpose.
- e. Roads on and adjacent to the parcel.

- f. Walks, curbs, gutter, culverts and other known and located underground structures within the tract and immediately adjacent thereto.
- g. Existing utilities on and adjacent to the tract.
- h. Type of land use on and adjacent to the tract.
- i. Proposed name of the subdivision or identifying title; and
- j. The name and address of owner and applicant, and the names of abutting property owners.

2. Subdivision Information

General subdivision information shall describe or outline the existing conditions of the site and the proposed development as necessary to supplement the Sketch Plan. This information shall include:

- a. Information on existing covenants.
- b. A medium intensity standard soil survey.
- c. Available community facilities and utilities.
- d. Information describing the subdivision proposal such as:
 - (1) Number of residential lots;
 - (2) Typical lot width and depth;
 - (3) Playgrounds, park areas and other public areas;
 - (4) Proposed protective covenants; and
 - (5) Proposed utilities and street improvements.

3. First Meeting

At this first meeting, the Planning Board may develop its own initial understanding of the proposal, inform the Applicant of the requirements of later stages of the review, and make specific suggestions that may be incorporated by the Applicant into subsequent submissions. Also at this first meeting, the Board and the Applicant may arrange for a joint inspection of the site within forty (40) days.

4. Completeness

At the next meeting, the Board may inform the Applicant that the sketch plan as submitted or as modified does or does not meet the requirements of the Ordinance. The Board may make specific suggestions to the Applicant.

5. Discussion

No binding commitments may be made between the Applicant and the Board on a pre-application Sketch Plan. The purpose of the pre-application meeting is to informally discuss the proposal and the provisions of Town ordinances.

6. Not Initiation

The submission or review of the Sketch Plan shall not be considered the initiation of the review process for the purposes of Maine Revised Statutes, Title 1 section 302.

SUB CHAPTER 3 APPLICATION

The application may be considered as either a major or minor subdivision.

A. MINOR SUBDIVISION

The following procedures shall apply to a minor subdivision:

1. Within six (6) months after Sketch Plan acceptance by the Board, the Applicant shall submit an application for the consideration of a Final Plan. The Final Plan shall conform to the layout shown on the Sketch Plan with any recommendations made by the Board.
2. The Planning Board shall review the application and determine whether it is complete or, if the application is incomplete, the specific additional material needed to complete the application.
3. At the meeting when the application is found to be complete, the Board shall inform the Applicant of the initial amount of the technical review fee and set a date for a public hearing.
4. Within sixty (60) days of receipt of a completed Final Plan Application, or within forty (40) days of a public hearing, whichever occurs later, the Board shall take action to give final approval, with or without modifications, or disapproval of such Final Plan. The reasons for any modification required or the grounds for disapproval shall be stated upon the record of the Board and a copy provided to the Applicant.
5. Notwithstanding the deadlines in the previous paragraph, a Final Plan may not be acted on by the Board until the Applicant has paid the technical review fee and the Board has scheduled and conducted a public hearing thereon.
6. If the proposed subdivision requires a permit under Shoreland Zoning, or from the Bremen Harbor Committee or under the Site Location of Development Act, the Stormwater Management Law or the Natural Resources Protection Act or is otherwise under the jurisdiction of the Departments of Environmental Protection or Transportation, the Final Plan shall not be approved until all such approvals are obtained.
7. The Board may require, where it finds that a decision on a Minor Subdivision is unusually complex or that the subdivision has a special impact upon wetlands or wildlife habitat or where high ground water table or steep terrain raise concerns, or where it otherwise seems necessary for

the protection of public health, safety, and welfare, that a Minor Subdivision comply with some or all of the submission requirements for a Major Subdivision. The Planning Board shall specifically identify those additional requirements in writing to the Applicant.

B. MAJOR SUBDIVISION

A major subdivision requires a two step process: a Preliminary Plan and a Final Plan review.

1. Preliminary Plan

- a. Within six (6) months after Sketch Plan acceptance by the Planning Board, the Applicant shall submit an application for a Preliminary Plan for the Subdivision. The Preliminary Plan shall conform to the layout shown on the Sketch Plan plus any recommendations made by the Board.
- b. The Planning Board shall review the application as it does for a Minor Subdivision, with the additional considerations and issues raised because it is a Major Subdivision.
- c. The Planning Board shall review the application and determine whether it is complete or, if the application is incomplete, the specific additional material needed to complete the application. At this meeting, the Planning Board shall inform the Applicant of the initial amount of the technical review fee and set a date for a public hearing.
- d. Within sixty (60) days of receipt of a completed Preliminary Plan Application, or within forty (40) days of a public hearing, whichever occurs later, the Board shall take action to give preliminary approval, with or without modifications, or disapproval of such Preliminary Plan. The reasons for any modifications required or the grounds for disapproval shall be stated upon the record of the Board and a copy provided to the Applicant.
- e. Notwithstanding the deadlines in the previous paragraph, a Preliminary Plan may not be acted on by the Board until the Applicant has paid the technical review fee and the Board has scheduled and conducted a public hearing thereon.
- f. The Planning Board shall notify the Road Commissioner, School Superintendent, Conservation Commission, Harbor committee, and Fire Chief of the particulars of the proposed subdivision. The Planning Board shall request that each of these officials comment upon the proposed subdivision.

- g. Approval of a Preliminary Plan shall not constitute approval of the Final Plan or subdivision, it is only approval of the design submitted on the Preliminary Plan as a guide to the preparation of the Final Plan.

2. Final Plan

- a. The Applicant shall, within six (6) months after the approval of the Preliminary Plan, file with the Board an application for approval of the Final Subdivision Plan. The Applicant may be granted an extension by the Board if a letter is submitted explaining the need for additional time. If the Final Plan is not submitted to the Board within six (6) months after approval of the Preliminary Plan, the Board may refuse without prejudice to act on the Final Plan and require resubmission of the Preliminary Plan.
- b. If the proposed subdivision requires a permit under Shoreland Zoning, the Site Location of Development Act, the Stormwater Management Law or the Natural Resources Protection Act or is otherwise under the jurisdiction of the Departments of Environmental Protection or Transportation, the Final Plan shall not be approved until all such approvals are obtained.
- c. Water Supply system proposals contained in the Final Plan shall be approved in writing by a civil engineer registered in this State unless individual wells serving each building site are to be used. The Board may also require the applicant to submit the results of water quality tests as performed by the Department of Human Services.
- d. Sewage disposal system proposals or locations contained in the Final Plan shall be properly endorsed and approved in writing by the Department of Human Services, if a separate central sewage collection and treatment system is to be utilized, or the local Plumbing Inspector if individual septic systems are to be installed. Such approval shall be secured before submission of the Final Plan.
- e. A public hearing may be held concerning the Final Plan.
- f. A Plan may not be approved by the Planning Board as long as the applicant is in non-compliance on a previously approved Plan.
- g. The Board shall act on a Final Plan within sixty (60) days from the date of receipt of the completed application or forty (40) days from the date of the public hearing, whichever is later, unless the applicant agrees to an extension of the period.
- h. At the time the Board grants Final Plan approval, it may permit the Plan to be divided into two or more sections subject to any conditions of the Plan. The Applicant may request that only a section of the approved Plan be

filed with the Board and the Registry of Deeds if said section constitutes at least twenty-five (25) percent of the total number of lots contained in the approved Plan. In these circumstances, Plan approval on the remaining sections of the Plan shall remain in effect for two (2) years or a period of time mutually agreed to by the Board and the applicant.

SUB CHAPTER 4 APPLICATION

A. APPLICATION CONTENTS

The following submissions shall be provided for all subdivisions, both major and minor, unless the Planning Board determines by majority vote that, based on evidence provided by the applicant, that one or more submissions are not applicable due to the size, location, type or physical feature of the proposed subdivision.

1. Requirements.

The Applicant and documents, as follows:

- a. Name and address of Owner.
- b. Name and address of Applicant (if other than owner).
- c. If applicant is a corporation, state whether the corporation is licensed to do business in Maine, and attach a copy of Secretary of State's Registration.
- d. Name and address of applicant's authorized representative.
- e. Name, address, and number of Registered Professional Engineer, Land Surveyor, or Planner.
- f. Address to which all correspondence from the Board should be sent.
- g. The interest the applicant has in the parcel to be subdivided (option, purchase and sale contract, record ownership, etc.).
- h. The interest the applicant has in any property abutting the parcel to be subdivided.
- i. State whether the Plan covers all contiguous holdings of applicant and owner or not.
- j. A copy of the organization charter of the subdivision.
- k. Adequate evidence of applicant's financial ability to meet the expenses of subdivision development.
- l. Statement of applicant's responsibility for maintenance of common areas prior to the assumption of this obligation by a future lot owner association.

2. Parcel.

Information on Parcel to be subdivided as follows:

- a. Location of property: book and page (from Registry of Deeds) and Map and lot (from Assessors office).
- b. Current zoning of property.
- c. Acreage of parcel to be subdivided.
- d. A soils report, identifying soil types and location subsurface wastewater disposal soil test areas. There shall be at least one satisfactory subsurface wastewater disposal soil test per lot.
- e. The terms of any restrictive covenants to be placed in subdivision lot deeds.
- f. A soil erosion and sedimentation control plan.

3. Abutters.

A list containing the names and addresses of owners of record of properties within 500 feet of the proposed subdivision boundaries, including any property directly across an existing public road or private right-of-way from the subdivision.

4. Location Map.

A Location Map drawn on a United States Geological Survey topographic map at 7.5 or 15 minute series, as appropriate, showing the relation of the proposed subdivision to the adjacent properties and to the general surrounding area. The Location Map shall show all the area within 2,500 feet of any property line of the proposed subdivision showing:

- a. The location and boundaries of the proposed subdivision;
- b. All existing subdivisions and approximate boundaries of abutting parcels.
- c. The public and private roads presently existing.
- d. The boundaries and designations of parks and other public spaces.

5. Final Plan.

The Final Plan and accompanying materials shall show:

- a. All existing information provided as part of the Sketch and Preliminary Plans.
- b. The name, registration number and seal of the land surveyor or engineer who prepared the plan.
- c. Number of acres within the proposed subdivision and zone boundaries.
- d. A standard boundary survey plan of the property to be developed prepared by a licensed land surveyor and the location of temporary markers adequate to enable the Board to readily locate and appraise the basic layout in the field.
- e. Proposed lot lines with dimensions, lot numbers, areas in square feet and suggested locations of buildings.
- f. Location, widths and names of existing, filed or proposed roads, rights of way, easements, building lines and alleys pertaining to the proposed subdivision and to the properties as designated in paragraph 3 above.
- g. An outline of the proposed subdivision together with its road system and an indication of the future probable road system of the remaining portion of the tract, if the Plan submitted covers only part of the subdivider's entire holding.
- h. Sufficient data to determine readily the location, bearing and length of every road line, lot line, boundary line, and to reproduce such lines upon the ground. Property lines of all lands adjoining the subdivision shall be shown.
- i. Permanent reference monuments shown thus: "X". They shall be constructed and placed in accordance with specifications herein, and their location noted and referenced upon the Final Plan.
- j. Proposed easements, open spaces, forested areas, perennial and intermittent watercourses, and wetlands, and other habitat as depicted on the Bremen Habitat Map, dated November 2007, and all amendments and revisions thereto. The boundaries of any wetlands depicted on the plans shall be delineated by a wetlands scientist.
- k. Contour lines at intervals of not more than five (5) feet.
- l. Connection with existing or proposed water supply or alternative means of providing water supply.

- m. Connection with existing or proposed sanitary sewerage system or alternative means of proposed treatment.
- n. If a private sewage disposal system is proposed, location and results of tests to ascertain subsurface soil ground water conditions and depths to maximum ground water level. A completed HHE 200 form must be submitted with the preliminary.
- o. Typical erosion control procedures to be applied to each lot.
- p. Preliminary designs of any bridges or culverts, which may be required along with State approval if, required.
- q. The location of all parcels of land proposed to be dedicated to public use and the conditions of such dedication.
- r. The location of all natural features or site elements to be preserved.
- s. Certification by a registered professional engineer or a registered land surveyor that all survey, deed and supporting information accurately reflects the true conditions existing on the proposed subdivision.
- t. Base flood elevation data.
- u. The location of significant natural resources including important deer wintering areas, other important plant or wildlife habitat and areas with visual significance.
- v. The location of any trail, trail system or greenbelt that crosses the property.
- w. A phosphorous control plan for any portion of the subdivision within the watershed of a waterbody.
- x. Any conditions of approval required by the Board.
- y. A statement indicating that any change or modification to any aspect of the approved plan shall be considered an amendment to the Plan and shall require further approval of the Board.
- z. Where the subdivision roads are to remain private roads, the following words shall appear on the recorded plan.

"All roads in this subdivision shall remain private roads to be maintained by the developer or the lot owners and shall not be accepted or

maintained by the Town.”

6. Plan Submissions.

Each application shall be submitted with two (2) full size copies plus ten (10) reduced size copies of each map or drawing, together with ten (10) copies of any attachments required for review. For a Final Plan, the submission shall also include two (2) mylar copies. All dimensions shall be shown in feet or decimals of a foot and drawn to a scale of not more than 100 feet to the inch. Space shall be reserved for endorsements by all approving agencies.

B. MAJOR SUBDIVISION APPLICATION

In addition to the general application requirements, a major subdivision shall also provide the following information:

1. Preliminary Plan.

A Preliminary Subdivision Plan shall be submitted. The Preliminary Plan and accompanying materials shall show:

- a. All information required on a Sketch Plan, application and Plan information required for a Minor Subdivision.
- b. Typical cross-sections of the proposed grading for roadways, sidewalks, etc. including width, type of pavement, elevations and grades. All such plans shall be based on an on-ground topographic survey at two (2) foot contour interval or less.
- c. A medium-intensity soils map that encompasses the area to be subdivided. The Planning Board may require submission of a high-intensity soils map if needed to properly evaluate the application.
- d. For major subdivisions that are not served by public sewer, a hydrogeologic assessment prepared by a certified geologist or registered professional engineer experienced in hydrogeology.
- e. A storm water management plan, prepared by a registered professional engineer. It shall be designed so that the post-development storm water runoff does not exceed the pre-development storm water runoff for the 24-hour duration, and 2-, 10-, and 25-year frequency storm events. The storm water plan shall be prepared in accordance with *Stormwater Management for Maine: Best Management Practices*, latest edition, prepared by the Department of Environmental Protection, which is incorporated herein by reference and made a part thereof. The storm water plan shall include the following information for the pre- and post-development conditions:

drainage area boundaries, hydrologic soils groups, ground cover type, time of concentration flow paths, modeling methodology, calculations, and background data. The Board may require review and endorsement of the stormwater plan and calculations by the Knox-Lincoln Soil and Water Conservation District.

- f. An erosion and sediment control plan shall be prepared in accordance with the *Maine Erosion and Sediment Control Handbook for Construction: Best Management Practices*, latest revision, prepared by the Cumberland County Soil and Water Conservation District and the Maine Department of Environmental Protection, which is incorporated herein by reference and made a part thereof. The plan shall be prepared either by a professional civil engineer or by a Certified Professional in Erosion and Sediment Control (CPESC). At a minimum, the following items shall be discussed and provided:

- (1) The name, address, and telephone number of the person responsible for implementation of the plan.
- (2) A vicinity map showing the location of waterbodies that may be affected by erosion and sedimentation from the project.
- (3) Existing and proposed drainage patterns, including drainage channels that drain to surrounding waterbodies.
- (4) A sequence of work that outlines how the project will be constructed and specifically addressing how soil disturbance will be minimized during the construction process.
- (5) Clear definition of the limits of work and any buffer areas that will remain undisturbed and an indication of how these areas will be protected during construction.
- (6) Description of temporary and permanent erosion control practices that will be used.
- (7) Identification of the locations of the temporary and permanent erosion control practices.
- (8) Identification of how and where collected sediment will be disposed.
- (9) Dust control measures.
- (10) Inspection and maintenance procedures, including schedule and frequency.

The Board may require the review and endorsement of this plan by the Knox-Lincoln Soil and Water Conservation District.

- g. A plan for ensuring an adequate on-site water supply for fire suppression. The plan shall include any existing or proposed perpetual easements necessary to ensure access to the fire fighting water supply
- h. An estimate of the amount and type of vehicular traffic to be generated on a daily basis and at peak hours and the sight distances for each driveway that intersects an existing or proposed public or private road.

For subdivisions that will generate more than 200 vehicle trips per day, a traffic impact analysis prepared by a registered professional engineer with experience in traffic engineering. The analysis shall indicate the expected average daily vehicular trips, peak-hour volumes, access conditions at the site, distribution of traffic, types of vehicles expected, effect upon the level of service on the road giving access to the subdivision and neighboring roads that may be affected, and recommended improvements to maintain the desired level of service on the affected roads. Trip generation rates shall be obtained from the latest edition of "Trip Generation", published by the Institute of Transportation Engineers.

- i. A phosphorous control plan for any portion of the subdivision within the watershed of a great pond.
- j. If the subdivision requires a Stormwater Permit from the Department of Environmental Protection (DEP), the Board may accept the Stormwater Permit issued by DEP as sufficient.
- k. A description of the subdivision's affordable housing component.
- l. A groundwater impact assessment.
- m. A plan for summer and winter maintenance of all proposed roads by lot owners. Such plan shall include provisions for establishing, approving and annually funding a road maintenance budget by lot owners sufficient to keep all roads in good repair. All lot owners shall be required to participate in such plan.

2. Notice on Historic Preservation

An owner or his authorized agent shall submit information on the location of the development to the following address:

State Historic Preservation Officer
Maine Historic Preservation Commission

55 Capitol Street
State House Station 55
Augusta, Maine 04333-0055

The submission shall include a request that the Planning Board be notified of any comments. The applicant shall submit to the Planning Board proof of such notification, including a copy of the letter to the State Historic Preservation Officer.

C. FINAL PLAN

1. Final Plan.

The Final Plan shall be submitted with two (2) mylar originals in addition to the other required copies. All maps and drawings shall be printed or reproduced in the same manner as the Preliminary Plan. Space shall be reserved thereon for endorsement by all appropriate agencies. The Final Plan shall show:

- a. All of the information presented on the Preliminary Plan, Location Map and any amendments thereto suggested or required by the Board.
- b. The name, registration number and seal of the land surveyor or engineer or planning consultant who prepared the plan.
- c. Any conditions of approval required by the Board
- d. A statement indicating that any change or modification to any aspect of the approved plan shall be considered an amendment to the plan and shall require approval of the Board.

2. Deeds or Easements.

The applicant shall submit to the Board with the Final Plan, all deeds or easements to the Town of all public open space shown on the Plan that is to be transferred to the Town, and also copies of agreements or other documents showing the manner in which other spaces are to be reserved by the applicant.

SUB CHAPTER 5 GENERAL REQUIREMENTS

In reviewing applications for the subdivision of land, the Board shall consider the following general requirements. In all instances, the burden of proof shall be upon the person proposing the subdivision.

A. CONFORMITY WITH COMPREHENSIVE PLAN

Any proposed subdivision shall be in conformity with the Comprehensive Plan of the Town and with the provisions of all pertinent state and local statutes, codes and ordinances.

B. STATE REVIEW

If the subdivision meets the definition of subdivision as defined in the Site Location Act, Maine Revised Statutes, Title 38 section 482, the Applicant must secure the approval of the Board of Environmental Protection. Each review may be conducted simultaneously. However, each review is independent, and the Planning Board may deny approval even though the Board of Environmental Protection has granted an approval.

C. GENERAL STANDARDS

The following general standards apply:

The Proposed subdivision:

1. Pollution.

Will not result in undue water or air pollution. In making this determination, the Planning Board shall at least consider:

- a. The elevation of the land and its relation to flood plains;
- b. The nature of soils and subsoils and their ability to adequately support waste disposal;
- c. The slope of the land and its effects on effluents;
- d. The availability of streams for disposal of effluents; and
- e. The applicable State and local health and water resources regulations.

2. Water.

Has sufficient water available for the reasonably foreseeable needs of the subdivision;

3. Water supply.

Will not cause an unreasonable burden on an existing water supply, if one is to be

utilized;

4. Soil Conditions.

Will not cause unreasonable soil erosion or reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result;

5. Traffic.

Will not cause unreasonable highway or public road congestion or unsafe conditions with respect to the use of highways or public roads, existing or proposed, and, if the proposed subdivision requires driveways or entrances onto a state or state aid highway located outside the urban compact area of an urban compact municipality as defined by Title 23, Maine Revised Statutes section 754, the Department of Transportation has provided documentation indicating that the driveways or entrances conform to Title 23 Maine Revised Statutes, section 704 and any rules adopted under that section

6. Waste disposal.

Will provide for adequate solid and sewage waste disposal;

7. Municipal facilities.

Will not cause an unreasonable burden on the ability of the Town to dispose of solid waste and sewage with respect to the use of municipal facilities, existing or proposed;

8. Municipal services.

Will not place an unreasonable burden on the ability of the Town to provide municipal or governmental services;

9. Natural areas.

Will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, significant wildlife habitat identified by the Department of Inland Fisheries and Wildlife or the Town, or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline;

10. Local Plans and Ordinances.

Is in conformance with the Comprehensive Plan, Shoreland Zoning Ordinance, Floodplain Management Ordinance, Site Review Ordinance, or other duly adopted town ordinances or regulations. In making this determination, the Planning Board may interpret these ordinances and plans;

11. Financial and technical capacity.

The applicant has adequate financial and technical capacity to meet the required standards;

12. Shoreland.

Whenever situated entirely or partially within the watershed of any pond or lake or within 250 feet of any wetland, great pond or river as defined in the Town's Shoreland Zoning Ordinance, the proposed subdivision will not adversely affect the quality of water or unreasonably affect the shoreline of that body of water.

13. Groundwater.

Will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of groundwater and aquifers;

14. Flood Zone.

Based on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps, and information presented by the applicant whether the subdivision is in a flood-prone area. If the subdivision, or any part of it, is in such an area, the applicant shall determine the 100-year flood elevation and flood hazard boundaries within the subdivision. The proposed subdivision plan must include a condition of plan approval requiring that principal structures in the subdivision will be constructed with their lowest floor, including the basement, at least one foot above the 100-year flood elevation;

15. Wetlands.

All freshwater wetlands within the proposed subdivision have been identified on any maps submitted as part of the application, regardless of the size of these wetlands;

16. Waterway.

Any river, stream, or brook, as defined in the Natural Resources Protection Act, Maine Revised Statutes Title 38, Section 480-B, within or abutting the subdivision has been identified on any maps submitted as part of the application;

17. Storm water.

The subdivision will provide for adequate storm water management;

18. Shore frontage.

If any lots in the proposed subdivision have shore frontage on a river, stream,

great pond or tidal waters as defined in the Shoreland Zoning Ordinance, none of the lots created within the subdivision have a lot depth to shore frontage ratio greater than 5 to 1;

19. Phosphorus.

The long-term cumulative effects of the proposed subdivision will not unreasonably increase a great pond's phosphorous concentration during the construction phase and life of the proposed subdivision;

20. Adjoining Town.

For any proposed subdivision that crosses municipal boundaries, the proposed subdivision will not cause unreasonable traffic congestion or unsafe conditions with respect to the use of existing public ways in an adjoining municipality in which part of the subdivision is located.

21. Timber Harvesting.

Timber on the parcel being subdivided has not been harvested in violation of rules adopted pursuant to Title 12, Maine Revised Statutes, Section 8869, subsection 14. If a violation of rules adopted by the Maine Forest Service to substantially eliminate liquidation harvesting has occurred, the municipal reviewing authority must determine prior to granting approval for the subdivision that 5 years have elapsed from the date the landowner under whose ownership the harvest occurred acquired the parcel. A municipal reviewing authority may request technical assistance from the Department of Conservation, Bureau of Forestry to determine whether a rule violation has occurred, or the municipal reviewing authority may accept a determination certified by a forester licensed pursuant to Title 32, Maine Revised Statutes chapter 76. If a municipal reviewing authority requests technical assistance from the Bureau, the Bureau shall respond within 5 working days regarding its ability to provide assistance. If the Bureau agrees to provide assistance, it shall make a finding and determination as to whether a rule violation has occurred. The Bureau shall provide a written copy of its finding and determination to the municipal reviewing authority within 30 days of receipt of the municipal reviewing authority's request. If the Bureau notifies a municipal reviewing authority that the Bureau will not provide assistance, the municipal reviewing authority may require a subdivision applicant to provide a determination certified by a licensed forester.

For the purposes of this subsection, "liquidation harvesting" has the same meaning as in Title 12, Maine Revised Statutes section 8868, subsection 6 and "parcel" means a contiguous area within one municipality, township or plantation owned by one person or a group of persons in common or joint ownership. This subsection takes effect on the effective date of rules adopted pursuant to Maine Revised Statutes Title 12 Section 8869, subsection 14.

D. RETENTION OF PROPOSED PUBLIC SITES AND OPEN SPACES

1. Open Space.

In order to preserve the rural character of the Town and to restrain an increase of population density, the Planning Board shall, in any subdivision larger than twenty-five (25) acres, require the Applicant to provide no less than twenty percent (20%) of total buildable area as open space. In any subdivision between twenty-five (25) and ten (10) acres, the Planning board may, but is not required to, require the Applicant to provide no less than ten percent (10%) of total buildable area as open space.

a. The Planning Board may require a larger area as open space if it finds it is necessary to preserve wildlife habitats, important natural features, access water bodies, wetlands, exceptional scenic views, important archeological or historical sites.

b. The acreage dedicated to open space should be one contiguous area and, to the extent possible, abut any previously designated open space, conserved areas and easements, or public space in any properties adjacent to the subdivision.

c. The provision of an area to be designated as open space does not cause a Minor Subdivision to become a Major Subdivision

2. Historical Site.

The Planning Board shall consider the comments of the State Historic Preservation Office, if any, and may require that significant archaeological or historical sites be preserved to the maximum extent possible both during construction and following completion of the development.

3. Recreational land.

Land reserved for park and/or recreational purposes shall be of a character, configuration, size and location suitable for the particular use intended. The Planning Board shall consider the comments of the Conservation Commission, if any. The configuration of such sites shall be adequate with regard to scenic attributes to be preserved, together with sufficient areas for parking, access, road frontage, trails, lookouts, etc., where necessary and appropriate. It is desirable that areas reserved for recreation be easily accessible from all lots within the subdivision.

4. Ownership.

Ownership shall be clearly indicated for all reservations of open space, park and recreational purposes and shall be clearly established in a manner to ensure the continuation of responsibility for ownership and maintenance.

E. ABUTTING WATER

Where the proposed subdivision abuts or contains a water body, the Board may require the applicant to reserve an area of land abutting the water body as open space or a recreational area to the extent necessary to properly serve the residents. The cost of maintenance and development of the reserved land shall be borne by the property owners. The manner of providing for the cost of development, maintenance and access rights of way to this reserved land shall be included in the instrument of conveyance to each property owner of the subdivision.

F. PRESERVATION OF NATURAL AND HISTORIC FEATURES

The Planning Board shall require that a proposed subdivision design include a landscape and open space plan that will show the preservation of existing trees, the replacement of trees and vegetation, graded contours, waterbodies and the preservation of scenic, historic or environmentally desirable areas. The road and lot layout shall be adapted to the topography. Extensive grading and filling shall be avoided as far as possible. A fifty (50) foot buffer strip shall be provided where the proposed subdivision abuts an existing road.

G. TRAFFIC SIGHT DISTANCE

All points of access from the subdivision onto existing or proposed roads shall be so designed in profile and grading and so located as to provide a minimum sight distance in each direction of 10 feet per each mile per hour of posted speed limit. The measurements shall be from the driver's seat of a vehicle standing on the exit driveway 12 feet behind the curb line or edge of travelway, with the height of eye 3.5 feet to the top of an object 4.25 feet above the pavement.

H. CONFORMANCE TO SHORELAND ZONING

The proposed subdivision shall conform to the Shoreland Zoning Ordinance for the Town.

I. EASEMENTS FOR NATURAL DRAINAGE WAYS

Where a subdivision is traversed by a natural watercourse, drainage way, channel or stream, there shall be provided a storm water easement or drainage right-of-way to the homeowners' association conforming substantially with the lines of such watercourse of such width as will assure that no flooding occurs and all storm water can be disposed of properly. Such easement or right-of-way shall be not less than thirty (30) feet in width.

J. NET RESIDENTIAL DENSITY

The calculation of density for all residential subdivisions shall be based on the net

residential area or acreage of the parcel as defined herein.

K. DENSITY

Lots and Density shall be as follows:

1. Contiguous lots.

Only contiguous buildable land shall be counted for purposes of calculating minimum lot size.

2. Minimum Size.

Each lot shall be the minimum size required by other Town ordinances.

3. Lot sizes.

The width, depth, shape and orientation of lots shall be appropriate for the location of the subdivision and for the contemplated type of development.

4. Cluster developments.

For cluster developments, overall net density shall not be greater than the density that would result from the creation of individual, non-clustered lots. Density shall be calculated by dividing the net residential acreage within the subdivision (including open spaces or common recreational areas) by the number of proposed units.

5. Off-street parking.

Lot configuration and area shall be designed to provide for adequate off-street parking and service facilities based upon the type of development proposed.

6. Multiple frontages.

Lots with multiple frontages shall be avoided wherever possible. When lots do have frontage on two or more roads, the plan and deed restrictions shall indicate vehicular access shall be located only on the less traveled way.

7. Length to width ratio.

The ratio of lot length to width shall not be more than three to one. Flag lots and other odd shaped lots in which narrow strips are joined to other parcels in order to meet minimum lot size requirements are prohibited.

L. UTILITIES

1. Plan depiction.

The size, type and location of public utilities, such as street lights, electricity, telephone wires and poles, fire hydrants, etc., shall be depicted on the Plan or described in the application.

2. Underground.

The Board may require utilities to be installed underground if it concludes that the public benefits in visual effect and operating reliability justify the cost.

3. Flood plain.

All public utilities and facilities, such as sewer, gas, electrical and water systems shall be located and constructed to minimize or eliminate flood damage.

M. EROSION AND SEDIMENTATION CONTROL SHALL BE AS FOLLOWS:

1. Fill.

All activities which involve filling, grading, excavation or other similar activities which result in unstabilized soil conditions and which require a permit shall require a written soil erosion and sedimentation control plan. The plan shall meet the recommendations in the latest revision of the Environmental Quality Handbook prepared by the Maine Soil and Water Conservation Commission, June 1974, revised March 1986. The plan shall be submitted to the permitting authority for approval and shall include, where applicable, provisions for:

- a. Mulching and revegetation of disturbed soil.
- b. Temporary runoff control features such as hay bales, silt fencing or diversion ditches or other methods recommended in the Environmental Quality Handbook.
- c. Permanent stabilization structures such as retaining walls or riprap, in accordance with standards recommended in the Environmental Quality Handbook specified above..

2. Erosion.

In order to create the least potential for erosion, development shall be designed to fit with the topography and soils of the site. Areas of steep slopes where high cuts and fills may be required shall be avoided wherever possible, and natural contours shall be followed as closely as possible. The top of a cut or bottom of a fill section shall not be closer than fifty (50) feet from any abutting property line.

3. Control measures.

Erosion and sedimentation control measures shall apply to all aspects of the proposed project involving land disturbance, and shall be in operation during all stages of the activity. The amount of exposed soil at every phase of construction shall be minimized to reduce the potential for erosion.

4. Exposed ground.

Any exposed ground area shall be temporarily or permanently stabilized within one (1) week from the time it was last actively worked, by use of riprap, sod, seed, and mulch, or other effective measures. In all cases permanent stabilization shall occur within nine (9) months of the initial date of exposure. In addition:

- a. Where mulch is used, it shall be applied at a rate of at least one (1) bale per five hundred (500) square feet and shall be maintained until a catch of vegetation is established.
- b. Anchoring the mulch with netting, peg and twine or other suitable method may be required to maintain the mulch cover.
- c. Additional measures shall be taken where necessary in order to avoid siltation into the water. Such measures may include the use of staked hay bales and/or silt fences.

5. Drainage.

Natural and man-made drainage ways and drainage outlets shall be protected from erosion from water flowing through them. Drainage ways shall be designed and constructed in order to carry water from a twenty-five (25) year storm or greater, and shall be stabilized with vegetation or lined with riprap.

6. Disturbed ground.

All projects over one-hundred (100) square feet of disturbed ground that require a permit under this Ordinance shall conform to the requirements of Section A or B, below, as applicable.

Section A projects are classified as a project where there is ground disturbance of more than one-hundred (100) square feet and less than or equal to forty-thousand (40,000) square feet of cumulative disturbed ground including where soil is stored. Section B projects are greater than 40,000 square feet.

7. Plan.

The Applicant shall submit an Erosion and Sedimentation Control Plan

The Erosion and Sedimentation Control Plan shall include graphic and written plans and shall conform to the following standards:

- a. The graphic plan shall include the following:
 - (1) Grades or direction of slope on the site; slopes over 25% shall be identified
 - (2) Areas that will be regraded or where vegetation will be removed or disturbed
 - (3) Locations of temporary erosion control measures such as silt fence, sediment basins, check dams or diversion ditches
 - (4) Locations of permanent erosion control measures such as grassed or riprapped ditches, plunge pools, ponds, berms or subsurface drainage structures
 - (5) Areas that will be mulched and reseeded
 - (6) Locations where topsoil will be stockpiled
 - (7) Locations and composition of buffer strips to water bodies
 - (8) Existing and proposed culverts and sizes
- b. The written plan shall include the following:
 - (1) Description of plans for temporary seeding in conformance with U.S.D.A. standards, or recommendations from a certified professional in erosion and sediment control.
 - (2) Description of plans for permanent seeding in conformance with U.S.D.A. standards, or recommendations from a certified professional in erosion and sediment control.
 - (3) Description of plans for temporary mulching in conformance with U.S.D.A. standards, or recommendations from a certified professional in erosion and sediment control.
 - (4) Description of plans for temporary runoff control such as silt fencing or diversion ditches in conformance with U.S.D.A. standards or recommendations from a certified professional in erosion and sediment control.

c. The Erosion and Sedimentation Control Plan shall meet the following standards:

- (1) A site shall be developed in such a way as to minimize erosion.
- (2) Areas to be stripped or regraded shall be protected by temporary erosion control measures.
- (3) Temporary seeding and mulching shall be applied as soon as possible to exposed areas being developed but in no case more than 1 week from the time they were last actively worked.
- (4) Until a disturbed area is stabilized, sediment in water shall be trapped in a sediment basin or similar erosion control structure.
- (5) Within 15 days of reaching final site grades, permanent seeding and erosion control shall be completed for all areas to be revegetated.
- (6) On slopes greater than 25%, there shall be no grading or filling within 100 feet of the normal high-water mark except to protect the shoreline and prevent erosion.
- (7) The Applicant is responsible for maintenance of all aspects of temporary and permanent erosion control.
- (8) Topsoil and fill stockpiles shall be at least 100 feet from all water bodies and protected by suitable erosion control measures.
- (9) In addition, should the amount of soil disturbance require more information, the Planning Board may require any of the following:
- (10) That the Plan be prepared in accordance with the Maine Erosion and Sediment Control Handbook for Construction: Best Management Practices, latest revision, prepared by the Cumberland County Soil and Water Conservation District and the Maine Department of Environmental Protection, which is incorporated herein by reference and made a part hereof. The plan shall be prepared either by a professional civil engineer or by a Certified Professional in Erosion and Sediment Control (CPESC). At a minimum, the following items shall be discussed and provided:
 - (a) The name, address, and telephone number of the Applicant.
 - (b) The name, address, and telephone number of the person responsible for implementing the plan.

(c) A vicinity map showing the location of waterbodies that may be affected by erosion and sedimentation from the project.

(d) Existing and proposed drainage patterns, including drainage channels that drain to surrounding waterbodies.

(e) A sequence of work that outlines how the project will be constructed and specifically addressing how soil disturbance will be minimized during the construction process.

(f) Clear definition of the limits of work and any buffer areas that will remain undisturbed and an indication of how these areas will be protected during construction.

(g) Description of temporary and permanent erosion control practices that will be used.

(h) Identification of the locations of the temporary and permanent erosion control practices.

(i) Identification of how, where and when collected sediment will be disposed.

(j) Dust control measures.

(k) Inspection and maintenance procedures, including schedule and frequency by the person responsible for implementing the plan.

(l) Description of when and how temporary and permanent erosion and sedimentation control practices, as applicable, will be removed.

11. The Board may require the review and endorsement of this plan by the Knox-Lincoln Soil and Water Conservation District at the Applicant's expense.

N. ADDITIONAL REQUIREMENTS

1. Greenery.

Trees, bushes, plantings and greenery may be required along roads and/or in open space, if the Board concludes that those requirements would insure consistency with the Town's traditional visual and aesthetic qualities. Where such improvements are required, they shall be incorporated in the Final Plan.

2. Noise.

The subdivision design shall minimize the possibility of noise pollution either from within or without the development (from highway or industrial sources) by providing and maintaining a planting screen easement at least twenty (20) feet wide between abutting properties that are so endangered.

The Subdivision shall be so designed as to maximize the probability that as it is developed, it will meet the noise level requirements of the Town's Site Review Ordinance.

3. Large lots.

Where a tract is subdivided into lots that are more than twice the required minimum lot size, the roads and lots shall be laid out so as to either permit or preclude future resubdivision in accordance with the requirements contained in this Ordinance.

O. REQUIRED IMPROVEMENTS

The following are required improvements: monuments, street signs, roads, landscaping, water supply, sewage disposal and storm drainage, except where the Board may waive or vary such improvements in accordance with the provisions of this Ordinance.

P. IMPACT ON GROUND WATER QUALITY

A hydrogeologic assessment is required only for a major subdivision. The Board may require it for a minor subdivision if it finds that the assessment is necessary because of known soil conditions, or drainage issues, the location of known aquifers, or the proximity of water bodies into which the subdivision may drain.

1. Information.

The assessment shall contain at least the following information:

- a. A map showing the basic soils types.
- b. The depth to the water table at representative points throughout the subdivision.
- c. Drainage conditions throughout the subdivision.
- d. Data on the existing ground water quality, either from test wells in the subdivision or from existing wells on neighboring properties.

e. An analysis and evaluation of the effect of the subdivision on ground water resources. In the case of residential developments, the evaluation shall, at a minimum, include a projection of post development nitrate-nitrogen concentrations at any wells within the subdivision and at the subdivision boundaries. For subdivisions within the watershed of a lake, projections of the subdivision's impact on ground water phosphate concentrations shall also be provided.

f. A map showing the location of any subsurface wastewater disposal systems and drinking water wells within the subdivision and within 200 feet of the subdivision boundaries.

2. Drought.

Projections of ground water quality shall be based on the assumption of drought conditions (assuming 60% of annual average precipitation).

3. Contaminants.

No subdivision shall increase any contaminant concentration in the ground water, at any on-site well, at any lot line or at the subdivision boundary to more than the Primary Drinking Water Standards. No subdivision shall increase any contaminant concentration in the ground water at any on-site well, at any lot line, or at the subdivision boundary to more than the Secondary Drinking Water Standards.

4. Quality.

If ground water contains contaminants in excess of the primary standards, and the subdivision is to be served by on-site ground water supplies, the Applicant shall demonstrate how water quality will be improved or treated.

5. Secondary standards.

If ground water contains contaminants in excess of the secondary standards, the subdivision shall not cause the concentration of the parameters in question to exceed 150% of the ambient concentration.

6. Waste Water.

Subsurface waste water disposal systems and drinking water wells shall be constructed as shown on the map submitted with the assessment. If construction standards for drinking water wells are recommended in the assessment, those standards shall be included as a note on the Final Plan, and as restrictions in the deeds to the affected lots.

7. Groundwater.

Projections of groundwater quality shall be made at any wells within the development site and at the development's boundaries or at a distance of five hundred (500) feet from potential contamination sources, whichever is a shorter distance.

Q. PHOSPHOROUS CONTROL

For subdivisions located within the watershed of a great pond, phosphorous export from construction and long term operation shall be equal to or less than that which is calculated using the methodology established by the Maine Department of Environmental Protection and described in "Phosphorous Control in Lake Watersheds: A Technical Guide to Evaluating New Development (September, 1992)".

R. AFFORDABLE HOUSING COMPONENT

All subdivisions that consist of at least ten (10) lots shall include an affordable housing component. At a minimum, the Applicant shall provide one lot for affordable housing for each ten (10) lots of market rate housing. Where the calculation of affordable lots results in a fraction of a lot, the required affordable lot shall be rounded up to the next highest number. Said affordable lots may be located within the project parcel or elsewhere in Town. For the purposes of this section, a lot for affordable housing shall mean an individual lot to be used for an affordable single family detached home.

S. MONUMENTS

Permanent monuments shall be set at all corners and angle points of the subdivision lots and boundaries; and at all intersections and points of curvature.

All road angle monuments shall be constructed of stone and shall be a minimum of four (4) inches by four (4) inches and four (4) feet long. All other monuments shall be constructed of a reasonably permanent material solidly embedded in the ground and capable of being detected by commonly used magnetic or electronic equipment. The monument shall clearly show the registration number or temporary certificate number of the registered land surveyor responsible for survey. Where the placement of a required monument at its proper location is impractical, it shall be permissible to set a reference monument close to that point.

U. ROAD SIGNS AND LIGHTING

Road signs shall be named and posted as required by State law. The developer shall reimburse the town for the costs of installing road name, traffic safety and control signs.

V. ROADS

1. Classification.

For the purposes of this Ordinance, roads are classified by function, as follows:

- a Arterial roads;
- b Collector roads;
- c Minor roads; or
- d Driveways

2. Layout

Roads shall be designed and laid out as follows:

- a Roads shall be designed to discourage through traffic on minor roads within a subdivision.
- b All roads in the subdivision shall be so designed to provide safe vehicular travel while discouraging movement of through traffic.
- c The arrangement, character, extent, width, grade and location of all roads shall be considered in their relation to existing or planned roads, to topographical conditions, to public convenience and safety, and their appropriate relation to the proposed use of the land to be served by such streets. Grades of roads shall conform as closely as possible to the original topography within the limits of these Standards.
- d Adequate off-road parking, suitably surfaced, shall be provided in connection with lots designed for commercial and industrial uses.
- e Single-family subdivisions may have one dead-end road, up to 1,000 feet in length, with turnaround connecting with existing public roads on an approved subdivision plan.
- h The Board may require right-of-way widths be provided if it determines that future extension of the street may occur. Such additional widths shall be consistent with the right-of-way width of the dead-end street.
- i All subdivisions shall be designed to provide access to individual lots only by interior subdivision roads. Direct access from any public road to any lot in a proposed subdivision shall be prohibited unless

the Planning Board determines that physical conditions unique to the parcel justify the granting of a waiver from this requirement. A waiver shall be granted only if one of the following conditions is met:

- (1) There is too little road frontage to reasonably allow creation of a new way; or
- (2) The shape or physical condition of the parcel does not permit access to or creation of a street other than the existing public way;

If the Board grants a waiver under this section, common access shall be utilized which will allow all proposed lots to be serviced by common curb cuts.

Road entrances onto existing state-aid or state highways in the above-described areas, and driveway or street entrances onto existing state-aid or state highways in all other areas must be approved by the Maine Department of Transportation. Copies of such approval shall be submitted to the Board at the time of final review.

- j Where subdivision roads are to remain private roads, the following statement shall appear on the plan to be recorded:

"All roads in this subdivision shall remain private roads to be maintained by the developer or the lot owners and shall not be accepted or maintained by the Town unless they meet all municipal street design and construction standards and are approved as such by the Town Meeting."

3. Existing Narrow Roads

Where a subdivision borders an existing narrow road not meeting the width standards of this Ordinance or when the Comprehensive Plan indicates plans for realignment or widening of a road that would require use of some of the land of a subdivision, the plan shall indicate reserve areas for widening or realigning the street marked "Reserved for Street Realignment (Widening) Purposes". Land reserved for such purposes may not be included in computing lot area or setback requirements. When such widening or realignment is indicated on the Official Map, the reserve area shall not be included in any lot, but shall be reserved to be deeded to the municipality or State.

4 Two Road Connections

Any proposed road or lengthening or alteration to an existing road which, on the basis of a specific development proposal or on the basis of available road frontage, could generate more than 200 vehicle trips per day shall have at least two road connections with existing public roads, roads shown on an Official Map, or roads on an approved subdivision plan for which performance guarantees have been filed and accepted. The Applicant may agree in writing, subject to Board approval, to limit development to less than 200 vehicle trips per day until such time as a second road connection is developed. For purposes of computing vehicle trips per day, the Applicant shall use the latest edition of Trip Generation published by the Institute of Transportation Engineers.

5. Design Standard

The following design standards shall apply according to the street classification:

Description	Type of Road		
	Collector	Minor	
Driveway			
Minimum Right-of-Way	50'	50'	N/A
Minimum Pavement Width	24'	20'	12'
Minimum Grade	.5%	.5%	N/A
Maximum Grade	6%	6%	15%
Minimum Centerline Radius	230'	150'	N/A
Minimum tangent between curves of	200'	100'	N/A
Reverse alignment			
Roadway Crown	¼"/ft	¼"/ft	N/A
Maximum grade within 75ft of intersection	2%	2%	2%
Minimum curb radii at intersections	20'	15'	10**
Minimum r/o/w radii at intersections	10'	10'	10'
Minimum width of shoulders (each side)	3'	3'	3'

* or 5' – 15'

6. Driveway

Any driveway, or private right-of-way accessing a public road, must have a clear passage of 25 feet across its entrance. If it accesses a public road that is sloped and ditched, the driveway or right-of-way must have a culvert to bridge the road ditch that is at least 12 " in diameter and 25 feet long.

- a. Driveways shall be set back at least 20 feet from side and back lot lines, except curb cuts may extend to side lot lines. Driveways shall be constructed at an angle of 90 degrees to a public road if conditions permit, but in no case less than 60 degrees.

- b. A new driveway shall be constructed and maintained to prevent water or runoff from reaching the paved or traveled portion of the public road. This standard shall not be subject to a waiver by the Planning Board or a variance by the Board of Appeals.
- c. Any driveway longer than 200 feet shall have turnarounds provided for emergency vehicles, and those longer than 400 feet shall have turnouts at a minimum of every 200 feet.

7. Dead End Roads

In addition to the design standards above, the design of the turnaround for dead end roads shall be approved by the Road Commissioner. The Board may require the reservation of an easement to provide continuation of pedestrian traffic or utilities or to provide continuation of the road where future subdivision is possible.

8. Grades, Intersections and Sight Distances

- a. Grades of all roads shall conform in general to the terrain so that cut and fill are minimized while maintaining the grade standards above.
- b. All changes in grade shall be connected by vertical curves in order to provide the following minimum stopping sight distances based on the road design speed.

Design Speed (mph)	20	25	30	35
Stopping Sight Distance (ft)	125	150	200	250

Stopping sight distance shall be calculated with a height of eye at 3½ feet and the height of object at 4½ foot.

- c. Where new road intersections or driveway curb-cuts are proposed, sight distances, as measured along the road onto which traffic will be turning, shall be based upon the posted speed limit and conform to the table below. Sight distances shall be measured from the driver's seat of a vehicle standing on that portion of the exit with the front of the vehicle a minimum of 10 feet behind the curbline or edge of pavement, with the height of the eye 3½ feet, to the top of an object 4½ feet above the pavement. Required sight distances may be reduced upon recommendation of the Road Commissioner

if he determines that the reduction will not significantly impact public safety, the sight distance is maximized to the greatest extent possible, and there is no feasible alternative location. In making this determination, the Road Commissioner may consult the Maine Department of Transportation.

Posted Speed Limit (mph)	Sight Distance Left (ft)	Sight Distance Right (ft)
20	120	130
25	120	130
30	220	260
35	220	260
40	380	440
45	380	440
50	620	700

Where necessary, corner lots shall be cleared of all growth and sight obstructions, including ground excavation, to achieve the required visibility.

- d. Cross (four-cornered) road intersections shall be avoided insofar as possible, except as shown on the Comprehensive Plan or at other important intersections. A minimum distance of 200 feet shall be maintained between centerlines of side streets.

9. Road Construction Standards

- a. The following are minimum thicknesses after compaction.

Road Materials	Minimum Requirements		
	Collector	Minor	Driveway
Aggregate Sub-base Course (maximum sized stone 4")	18"	18"	12"
Crushed Aggregate Base Course	3"	3"	
Hot Bituminous Pavement *			
Total Thickness	2½"	2½"	
Surface Course	1"	1"	
Base Course	1½"	1½"	

- b. Bases and Pavements

(1) Bases. The aggregate sub-base course shall be sand or gravel of hard durable particles free from vegetative matter, lumps, balls of clay and other deleterious substances. The gradation of the part that passes a 4 inch square sieve shall meet the following grading requirements:

Sieve Designation	Percentage by Weight Passing Square Mesh Sieves
¼ inch	25-70%
No. 40	0-30%
No. 200	0-7%

Aggregate for the sub-base shall contain no particles of rock exceeding 6 inches in any dimension. The aggregate base course shall be sand or gravel of hard durable particles free from vegetative matter, lumps, balls of clay and other deleterious substances. The gradation of the part that passes a 3-inch square mesh sieve shall meet the following grading requirements:

Sieve Designation	Percentage by Weight Passing Square Mesh Sieves
½ inch	45-70%
¼ inch	30-55%
No. 40	0-20%
No. 200	0-5%

Aggregate for the base shall contain no particles of rock exceeding 2 inches in any dimension.

- (2) Pavement Joints. Where pavement joins an existing pavement, the existing pavement shall be cut along a smooth line and form a neat, even vertical joint.
- (3) Pavements. Minimum standards for the base layer of pavement shall be the MDOT specification for plant mix grade B. Minimum standards for the surface layer of pavement shall meet the MDOT specifications for plant mix grade C.

C. Cleanup

Following road construction, the developer or contractor shall conduct a thorough cleanup of stumps and other debris from the entire road right-of-

way. If on-site disposal of the stumps and debris is proposed, the disposal site shall be indicated on the plans and be suitably covered with fill and topsoil, limed, fertilized and seeded.

10. Sidewalks

If sidewalks are proposed on the project site or adjacent properties or if significant pedestrian traffic is anticipated, the Planning Board may require specific standards for sidewalks which meet the following minimum requirements:

- a. Bituminous Sidewalks. The crushed aggregate base course shall be no less than 8 inches thick. The hot bituminous pavement surface course shall be no less than 2 inches after compaction.
- b. Portland Cement Concrete Sidewalks. The sand base shall be at least 6 inches thick. The Portland cement concrete shall be 4 inches thick and be reinforced with 6-inch square, no. 10 wire mesh.

11. Water Supply

- a. Water Storage shall be provided at the subdivider's expense, as necessary to meet fire protection needs as determined by the Fire Department.
- b. When fire fighting water supply or hydrants are required but not located within a proposed or existing right of way of a public street, perpetual easements shall be provided to the Town allowing for maintenance, improvements, testing and use.

12. Sewage Disposal

In considering lots, their size, and location, and the Plan, the Board shall consider soil types and the requirements of State law for wastewater disposal.

Each building lot in a new subdivision shall pass a soils test for an individual subsurface disposal system. The Board may waive this requirement if the subdivision has a centralized waste water disposal system and requires all lot owners are required to use that system.

13. Surface Drainage

- a. All improvements recommended in the drainage plan shall be shown on the Plan.

- b. A developer shall identify measures to correct or prevent soil erosion in the proposed subdivision as detailed in the sedimentation and erosion plan.

SUB CHAPTER 6 APPROVED APPLICATION REQUIREMENTS

A. FILING

The following recording is required for all approved subdivisions:

1. Mylars.

Upon approval, the mylar copies plus two (2) copies shall be properly signed by a majority of the members of the Board, using black ink.

2. Filing.

After the Final Plan is signed by the Board, the mylars and one (1) copy of the plans shall be returned to the Applicant. One (1) signed copy shall be retained by the Town. The Plan shall be filed by the Applicant with the Lincoln County Registry of Deeds, and one (1) signed mylar copy with the recording information noted on it shall be returned to the Town. A Subdivision Plan not so filed or recorded within sixty (60) days of the date upon which such Plan is approved, shall become null and void, unless the particular circumstances of said Applicant warrant the Board to grant an extension which shall not exceed two additional periods of sixty (60) days. This 60-day period shall begin the day the plan is signed by the Planning Board.

3. Extensions.

Any extension of this 60-day period must be requested of the Planning Board before the first 60-day period expires. The Applicant shall provide the Code Enforcement Officer (CEO) with a receipt from the Lincoln County Registry of Deeds within that time limit stating that the Plan has been filed and giving the Book and Page numbers. No building permits for an approved plan will be issued until the plan has been registered with the Lincoln County Registry of Deeds and a letter from the Applicant has been submitted to the Town stating that all permanent monuments as required by Subchapter 5, paragraph 5, of this Ordinance have been placed.

B. PLAN REVISIONS AFTER APPROVAL

Changes, erasures, modifications, or revisions shall not be made to any Final Plan after approval has been given by the Board and endorsed in writing on the Plan, unless the Plan is first resubmitted and the Board approves the revision. All amended plans must be signed by the Board and recorded in the Lincoln County Registry of Deeds as required for an approved final plan. In the event that a Final Plan is recorded without complying with this requirement, the Board may file an affidavit with the Lincoln County Registry of Deeds stating that the plan is null and void.

C. PUBLIC ACCEPTANCE OF ROADS, RECREATION AREAS

The approval by the Board of a Subdivision Plan shall not be deemed to constitute or be evidence of any acceptance by the Town of any street, easement or other open space, or park, playground or other recreation area shown on such Plan. The Board shall require the Plan to be endorsed with appropriate notes to this effect.

**SUB CHAPTER 7
TECHNICAL REVIEW FEE AND PERFORMANCE BOND**

A. TECHNICAL REVIEW FEE

1. Fee.

In addition to the application fee, the Applicant for subdivision review must also pay a technical review fee to defray the municipality's legal and technical costs of the application review. The Planning Board shall set the amount of the technical review fee based on the scale or nature of the project which may require outside review. This fee shall be set by the Planning Board at the review to determine the initial application's completeness. This fee must be paid to the municipality and shall be deposited in the Development Review Trust Account, which shall be separate and distinct from all other municipal accounts. The application will be considered incomplete until evidence of payment of this fee is submitted to the Planning Board. When the balance of the technical review fee is reduced before the final subdivision decision by the Planning Board to less than (25%) twenty-five percent of the original fee, the Planning Board may require an additional deposit equal to but not to exceed the amount of the original deposit, if it finds that additional professional services are reasonably required by the Planning Board. Until such additional deposit is received by the Town, the Planning Board review shall be suspended.

2. Use of fee.

The technical review fee may be used by the Planning Board to pay reasonable costs incurred by the Planning Board, at its discretion, which relate directly to the review of the application pursuant to the review criteria. Such services may include, but need not be limited to, consulting, engineering or other professional fees, attorney's fees, clerical, recording fees and appraisal fees. The municipality shall provide the Applicant, upon written request, with an accounting of the account's distributions and balance and shall refund all of the remaining monies in the account after the payment by the Town of all costs and services related to the review. Such payment of remaining monies shall be made no later than sixty (60) days after the final approval, denial of the application or approval with conditions of the application. Such refund shall be accompanied by a final accounting of expenditures from the fund. The monies in such fund shall not be used by the Planning Board for any enforcement or appeal purposes.

B. PERFORMANCE GUARANTEES

The Applicant shall file with the Town prior to the start of any construction, sale of any lot or issuance of any building permit, a performance guarantee in the form of a certified check payable to the Town, a performance bond running to the Town, an irrevocable

letter of credit to cover the full cost of required improvements, taking into account the time span of the construction schedule and the inflation rate for construction costs, or some other form of surety that is acceptable to the Board of Selectmen. For the purposes of this section, required improvement shall mean all public and private streets, all drainage structures and ditches, all erosion control measures, all utilities, all landscaping and all recreation facilities. Any such performance guarantee shall be satisfactory to the Board of Selectmen, with the advice of the Road Commissioner, the Planning Board, and a Professional Licensed Engineer, and as to form, sufficiency, manner of execution and surety, the municipal attorney

1. Contents of Guarantee:

The performance guarantee shall contain a construction schedule, cost estimates for each major phase of construction, taking into account inflation, provisions for inspections of each phase of construction, provisions for the release of part or all of the funds to the Applicant, and a date after which the Applicant will be in default and the Town shall have access to the funds to finish construction.

2. Escrow Account:

A cash contribution to the establishment of an escrow account shall be made by either a certified check, made out to the Town, the direct deposit into a savings account, or the purchase of a certificate of deposit. For any account opened by the Applicant, the Town shall be named as owner. Any interest earned on the escrow account shall be returned to the Applicant unless the Town has found it necessary to draw on the account, in which case the interest earned will remain with the account until the project is complete and the performance guarantee is no longer necessary.

3. Performance Bond:

A performance bond shall detail the conditions of the bond, the method of release of the bond or portions of the bond to the Applicant, and the procedures for collection by the Town of Bremen. The bond documents shall specifically reference the subdivision for which approval is sought.

4. Letter of Credit:

An irrevocable letter of credit from a bank or other lending institution shall indicate that the funds have been set aside for the construction of the subdivision and may not be used for any other project or loan.

5. Phase Guarantees:

At the discretion of the Board of Selectmen, the Applicant may be allowed to submit individual guarantees for each phase of a project's development. If this

option is chosen, prior to submission of each individual guarantees, the developer shall submit to the Town a written statement detailing completion dates for all streets and other public improvements planned for that phase.

6. Time:

A period of one year (or such period as the Board of Selectmen may determine appropriate, not to exceed three (3) years) shall be set forth in the guarantee time within which required improvements must be completed.

7. Release

The performance guarantee shall not be released by the Board of Selectmen until:

- a. The inspecting engineer has completed his final inspection of the project and has submitted a written report stating that all required public improvements as defined above have been completed in accordance with approved plans and specifications.
- b. The Board of Selectmen and Code Enforcement Officer have examined the site, have reviewed the inspecting engineer's report and concur with his findings. Performance guarantees collected on phased work segments shall be released in the same manner as outlined above, upon the completion of each phase.

C. INSPECTION OF REQUIRED IMPROVEMENTS AND FEE

1. Prior Notice.

At least five (5) days prior to commencing construction of required improvements, the Applicant shall notify in writing the Code Enforcement Officer of the time when he proposes to commence construction of such improvements so that the Board of Selectmen can cause inspection to be made to assure that all specifications and requirements shall be met during the construction of required improvements, and to assure the satisfactory completion of improvements and utilities required by the Board. Inspection shall be made of all required public improvements as defined above.

2. Inspection.

The Town shall cause inspection to be made either by a professional retained by the Town or, at the Town's discretion, by the Applicant's engineer, in order to ensure that all specifications and requirements are met during construction. If the Town retains a professional to inspect, the Applicant shall be assessed an

estimated fee to cover the costs of such inspection. That fee shall be paid immediately prior to the inspection.

3. Inspection fee.

No building permits shall be issued on the project and no work begun until the inspection fee has been paid.

4. Failure to construct.

If the inspector shall find, upon inspection of the improvement performed before the expiration date of the performance bond, that any of the required improvements have not been constructed in accordance with plans and specifications filed by the Applicant, the inspector shall so report to the Board of Selectmen, and the Planning Board. The Board of Selectmen shall then notify the Applicant and, if necessary, the bonding company or bank, and take all necessary steps to preserve the municipality's rights under the bond or letter of credit. No plan shall be approved by the Board as long as the Applicant is in default on a previously approved Plan.

5. Modifications.

If at any time before or during the construction of the required improvements it is demonstrated to the satisfaction of the inspector that unforeseen conditions make it necessary or preferable to modify the location or design of any required improvement, the Planning Board may authorize modifications, provided these modifications are within the spirit and intent of the Board's approval and do not extend to the waiver or substantial alteration of the function of any improvements required by the Board. The Planning Board shall issue any authorization under this section in writing and shall transmit a copy of such authorization to the Code Enforcement Officer and Inspector.

6. Final inspection.

Upon completion and final inspection of all required improvements, any funds remaining in a project's inspection fee account, after all inspection fees have been paid, shall be returned to the Applicant.

7. Monuments.

Prior to the sale of any lot, or issuance of any building permit, the Applicant shall provide the CEO with a letter from a Registered Land Surveyor, stating that all monumentation shown on the Plan has been installed.

8. Road completion.

Upon completion of road construction, a written certification signed by a professional engineer registered in the State of Maine shall be submitted to the Selectmen, at the expense of the Applicant, certifying that the street meets or exceeds the design and construction requirements of these regulations. If there are any underground utilities, the servicing utility shall certify in writing that they have been installed in a manner acceptable to the utility.

CHAPTER XI ADMINISTRATION

A. GENERAL PROVISIONS

1. Definitions.

For purposes of this section, the following words shall have the following meanings:

- a. "Authority" means the Code Enforcement Officer, the Board of Selectmen when taking any action under this ordinance, the Planning Board or the Board of Appeals.
- b. "Board" means the Planning Board or the Board of Appeals.

2. Planning Board.

The Planning Board shall contain seven (7) elected members. A quorum of four (4) members shall be necessary to conduct a meeting. A majority vote of the quorum is required for the passage of any motion before the Board.

3. Records.

Each authority shall maintain permanent files and a permanent written record of its actions on each matter, with those records to be maintained in the Town Office. A Board may maintain tape recordings that are not reduced to a transcript as an official recording.

4. Public Notice.

Each Board shall give public notice of all Board meetings.

- a. The requirement for notice of regularly scheduled meetings may be met by an annual notice of the day of the month of such meetings, provided that any changes in that schedule are also published.
- b. Notice of an emergency meeting shall be given to the local press and any interested parties in the same manner and at the same time as it is given to board members.

5. Agents.

At any hearing a party may appear by agent or attorney. The Code Enforcement Officer shall attend all appeal, variance and special exception hearings.

6. Burden of proof.

In all instances, the burden of proof shall be upon the Applicant.

7. Open meetings.

All meetings shall be open to the public, unless the Board enters into an executive session as provided by law. The Board may invite selected comments or participation by an Applicant, public officers or officials, or others, but may limit that participation as it deems appropriate for the efficient conduct of its business.

8. Application fee.

The initial application for subdivision review must be accompanied by an application fee. The fee shall not be refundable. This application fee must be paid to the municipality and evidence of payment of the fee must be included with the application. This fee is in addition to any other fees or charges established in this Ordinance.

9. Setting Fees

The fee shall be set, annually, by the Planning Board with a minimum fee, a per lot fee and a maximum total fee. This fee is intended to cover the cost of the municipality's administrative processing of the subdivision through the full review process, including notification, advertising, mailings and similar costs.

B. TIMING AND SEQUENCE

For all subdivision applications, the following time provisions apply:

1. Notice of completeness.

Unless specifically otherwise established, within forty (40) days of the filing of an application, the authority shall notify the Applicant, in writing, either that the application is a complete application or, if the application is incomplete, the specific additional material needed to make a complete application. After the authority has determined that a complete application has been filed, it shall notify the Applicant, in writing, and begin its review of the proposed development.

2. Notice to abutters.

The Applicant shall be required to notify, by mail, certified, return receipt requested, all property owners within 500-feet of the subdivision's boundaries that a Plan or application has been filed, and shall give evidence of that notice to the Board. The Board may identify other potentially interested parties to whom

notice must be given. Notification shall be completed within forty (40) days of filing an application.

3. Action deadline.

Unless specifically otherwise established, the appropriate authority shall approve, approve with conditions, or deny all applications in writing within forty (40) days of determining an application is complete.

- a. If a board has a waiting list of applications, a decision on the application shall occur within forty (40) days after the first available date for consideration on the Board's agenda following receipt of the completed application.
- b. If a hearing is scheduled, a decision shall occur within forty (40) days of the public hearing.

4. Written decision.

In issuing a decision, the authority shall make written findings of fact, and written conditions, if applicable.

5. Time Waiver.

An Applicant may waive in writing any time requirement for an authority's action.

C. Public Hearing

An authority may hold a public hearing on any matter.

1. Notice.

Notice of the time, place and date of such hearing shall be sent, not less than fourteen (14) days before the hearing, by the Applicant to owners of property within 500 feet of the properties involved by certified mail return receipt requested. Property owners shall be those listed in the most recent tax records of the Town. Evidence of such mailing must be provided to the Planning Board. Failure to receive this mailed notice by an individual shall not invalidate the public hearing.

2. Public Notice.

The Planning Board shall cause to be published a notice of the hearing in a newspaper of general circulation in the Town at least seven (7) days prior to the public hearing and also to be posted in the Town Office, the Bremen Post Office, and the Bremen Public Library.

D. WAIVERS

In considering a subdivision application, the Planning Board may grant certain limited waivers.

1. Special circumstances.

Where the Board makes written findings of fact that there are special circumstances, it may waive portions of the submission requirements, to permit a more practical and economical application process, provided the waivers do not have the effect of nullifying the intent and purpose of the Official Map, the Comprehensive Plan, or this ordinance.

2. Waiver for improvements.

Where the Board makes written findings of fact that, due to special circumstances, the provision of certain required improvements are inappropriate because of inadequate or lacking connecting facilities adjacent to or in proximity of the proposed road, it may waive or modify the requirement for such improvements, subject to appropriate conditions.

3. Conditions.

In granting waivers, the Board shall require such conditions as will assure the objectives of this ordinance are met

E. ENFORCEMENT

It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance.

1. Inspections.

The Code Enforcement Officer shall conduct on-site inspections to insure compliance with all applicable laws and conditions attached to permit approvals. The Code Enforcement Officer shall also investigate all complaints of alleged violations of this Ordinance.

2. Violation notice.

If the Code Enforcement Officer shall find that any provision of this Ordinance is being violated, he or she shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it, including discontinuance of illegal use of land, buildings or structures, or work being done, removal of illegal buildings or structures, and

abatement of nuisance conditions. A copy of such notices shall be submitted to the municipal officers and be maintained as a permanent record.

3. Legal action.

When the above action does not result in the correction or abatement of the violation or nuisance condition, the Code Enforcement Officer, with the approval of the Selectmen may institute any and all actions and proceedings, either legal or equitable, including seeking injunctions of violations and the imposition of fines, that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the municipality.

- a. The Code Enforcement Officer, with approval of the Selectmen may enter into administrative consent agreements for the purpose of eliminating violations of this Ordinance and recovering fines without Court action. Such agreements shall not allow an illegal structure or use to continue unless there is clear and convincing evidence that the illegal structure or use was constructed or conducted as a direct result of erroneous advice given by an authorized municipal official and there is no evidence that the owner acted in bad faith, or unless the removal of the structure or use will result in a threat or hazard to public health and safety or will result in substantial environmental damage.
- b. The Code Enforcement Officer, with the approval of the Board of Selectmen, may institute an action in the District Court, which shall be brought in the name of the Town. On conviction of violating this Ordinance, a person shall be punished as provided by 30-A MRSA §4452. Each day of violation shall constitute a separate offense. All fines shall inure to the Town.

4. Penalty.

Any person, including but not limited to a landowner, a landowner's agent or a contractor, who orders or conducts any activity in violation of this Ordinance shall be penalized in accordance with Maine Revised Statutes Title 30-A, §4452. That penalty may include attorney's fees, expert witness fees and other costs as provided.

F. BOARD OF APPEALS

THIS SECTION INTENTIONALLY LEFT BLANK

Town of Bremen, Maine
Subdivision Application

Subdivision Name _____
Application Number _____

APPLICANT INFORMATION

1. Name of Property Owner: _____
Address: _____
Telephone: () ____-_____
2. Name of Applicant: _____
Address: _____
Telephone: () ____-_____
3. If Applicant is a corporation, check if licensed in Maine __Yes__ __No__ and attach copy of Sta Registration.
4. Name of applicant's authorized agent: _____
Address: _____
Telephone: () ____-_____
5. Name of Surveyor, Engineer, Architect or other preparing plan: _____
Address: _____
Telephone: () ____-_____
- . Person and Address to which all correspondence regarding this application should be sent.
Address: _____
Telephone: () ____-_____
7. What legal interest does the applicant have in the property to be developed (ownership, option, purchase & sale contract, etc.)? Attach evidence of interest. _____
8. What interest does the applicant have in any abutting property? _____

Land Information

9. Location of Property (from County Registry of Deeds) Book _____ Page _____
(from Tax Maps) Map _____ Lot(s) _____
10. Has this land been part of a prior approved subdivision? __Yes__ __No__
Or other divisions within the past 5 years? __Yes__ __No__
11. Is any portion of property within 250 feet of the high water mark of a pond, river or salt water body? __Yes__ __No__.
12. Acreage to be developed _____

13. Is cluster development proposed? Yes No
 If Yes, give total acreage____, acreage in house lots____, common areas____.
14. Are any lands or roads proposed for dedication to public use? Yes Acreage No.
15. Indicate the nature of any restrictive covenants to be placed in the deeds:

16. Identify existing use(s) of land (farmland, woodlot, etc) _____

17. Does the parcel include any water bodies? Yes No

18. Is any portion of the property within a special flood hazard area as identifies by the Federal Emergency Management Agency? Yes No

19. List below the names and mailing addresses of abutting property owners and of owners across the road.

Name	Address
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

General Information

20. Number of lots or units: _____

21. Anticipated date for construction: _____

23. Identify method of water supply to the proposed development:
 individual wells
 central well with distribution lines
 other, please state alternative.
24. Identify method of sewage disposal for the proposed development.
 individual septic tanks
 central on-site disposal with collection lines.
 other, please state alternative.
25. Identify methods of fire protection for the proposed development.
 existing fire pond
 dry hydrants located on an existing pond or water body
 other, please state alternative.
26. Does the applicant intend to request waiver of any of the subdivision submission requirements Yes No. If yes, list them and state reasons for the request.

27. Does this development require extension of any public infrastructure? Yes No

roads storm drainage schools
 fire protection equipment other

28. Estimated cost for infrastructure improvements: \$ _____

29. Estimated increase in Towns assessed valuation resulting from this subdivision: \$ _____

To the best of my knowledge, all of the above stated information in this application is and correct.

(signature of applicant)

(date)



TOWN OF BREMEN
PO Box 171
BREMEN, MAINE 04551
(207) 529-5945 • FAX (207) 529-6302

TRAFFIC AND PARKING ORDINANCE

FOR THE

TOWN OF BREMEN, MAINE

Enacted:

January 17, 2013

**Amended: March 5, 2015
January 21, 2016**

Certified by:

Town Clerk

Traffic and Parking Ordinance
Town of Bremen

The following Ordinance is enacted by the Selectmen of the Town of Bremen on _____ 2012 according to the provisions of 30-A MRSA §3009.

ARTICLE I
GENERAL PROVISIONS

Section 1: Definitions

- 1.1 Vehicle
A vehicle as defined in 29-A MRSA §101, sub-§42.
- 1.2 Public Way
All streets, roads, parking lots of which the public has a right to travel over, as described in 29-A MRSA §101, sub-§59.
- 1.3 Park
Leaving a vehicle, whether occupied or unoccupied, temporarily for the purpose of loading or unloading merchandise or passengers.
- 1.4 Driver
A person who is an operator as defined in 29-A MRSA §101, sub-§48.
- 1.5 Police Officer
Any officer of the Sheriff's Office, or other person as defined in 29-A MRSA §101, sub-§30.
- 1.6 Sidewalk
That portion of street between the curb line or the lateral line of a traveled way and the adjacent property line which is intended for use by pedestrians.
- 1.7 Pedestrian
A person as defined in 29-A MRSA §101, sub-§53.
- 1.8 Alley
A street or way intended to provide access to the rear or side lots of a building and not intended for the purpose of through traffic.
- 1.9 Fire Chief
A person who is appointed by the Town as its Fire Chief.
- 2) Fireman

A person who is employed by the Town to fight fires and other emergencies as part of the Town Fire Department.

1.11 Official Time Standard

When certain hours are named herein they shall mean standard time or daylight savings time – whichever is in current use in the municipality.

1.12 Violation

A violation or infraction of any provision of this Ordinance shall be deemed a civil violation under 17-A MRSA §4-B.

ARTICLE II
TRAFFIC

2.1 The Fire Chief may post temporary "No Parking" signs in any location on a public or private way for emergencies or for public or private events when such restrictions are necessary to control traffic and/or for public safety. The Fire Chief shall inform the Selectmen of such actions.

ARTICLE III
STOP SIGNS

Failure to stop

No person shall drive any vehicle past or through any intersection having a stop sign, without bringing his/her vehicle to a FULL stop.

3.2 Stop signs

Stop signs shall be located in the following places:

- (a) Collamore Road all traffic shall stop before entering Medomak Road.
- (b) Creek Road all traffic shall stop before entering Medomak Road.
- (c) Town Landing Road all traffic shall stop before entering Medomak Road
- (d) Medomak Road all traffic shall stop before entering Waldoboro Road
- (e) Heath Road all traffic shall stop before entering Waldoboro Road.
- (f) Keene Neck Road all traffic shall stop before entering Waldoboro Road
- (g) Shore Road (upper) all traffic shall stop before entering Waldoboro Road
- (h) Shore Road (lower) all traffic shall stop before entering Waldoboro Road
- (j) Muscongus Road all traffic shall stop before entering Waldoboro Road

- (j) Rial Herald Road all traffic shall stop before entering Waldoboro Road
- (k) Fogler Road all traffic shall stop before entering Biscay Road
- (l) Nobleboro Road all traffic shall stop before entering Waldoboro Road
- (m) Storer Road all traffic shall stop before entering Waldoboro Road
- (n) Marble Road all traffic shall stop before entering Waldoboro Road

3.3 Emergency Vehicles

Ambulances and any vehicle belonging to the police or fire departments shall have the right-of-way in any street and through any traffic. All vehicles shall go to right of road or street, as near the curb or gutter as possible, and come to a complete stop at sound of approaching sirens or bells of all police vehicles or fire apparatus including vehicles owned by firemen. It shall be unlawful for any person to drive any team, automobile, truck, tractor, or other motor vehicles over any section(s) of hose which shall hereafter be laid by the Fire Department on the street.

ARTICLE IV ENFORCEMENT

4.1 Penalties

Any person accused of a violation of any portion of this ordinance, where a fine amount is not designated may voluntarily waive his/her right to appear and defend before any court or judicial tribunal the charge made against him or her for such violation by paying the Town the minimum sum of \$75.00 within thirty (30) days of the time such alleged offense was committed.

4.2 Payment

All fines and penalties collected under this Ordinance shall be paid to the Town Treasurer at the Town Office during normal business hours or by mail to address: PO Box 171, Bremen, ME 04551-0171. The Board of Selectmen are authorized to employ all such procedures authorized by law which they deem prudent to collect the same.

4.3 Signs

It shall be unlawful and in violation of this Ordinance for any person to cause damage to or take any municipal traffic devices, such as, but not limited to, any traffic safety equipment, such as safety cones, barriers, traffic lights, crosswalk signs or signs which designate road names, speed limit, stop, yield or any other type of traffic and safety signs or equipment owned or possessed by the Municipality. Any person(s) convicted of the theft or possession of any municipal traffic and safety items shall be subject to a mandatory minimum fine of \$150.00 per conviction. Any person convicted

Jamaging any municipal traffic and safety items will be subject to reimbursing the municipality for the cost of correcting or replacing and any installation of said items.

The Board of Selectmen may choose to offer a reward of up to \$200.00 to persons providing information which results in a conviction of any person(s) for the theft or possession of any municipal traffic and safety items.

4.4 Sheriff's Authority

The Lincoln County Sheriff's Department is authorized to enforce laws and direct traffic as set forth herein.

Sheriff's Deputies as assigned by the Lincoln County Sheriff are authorized to enforce all street traffic laws of the Town and all of the state vehicle laws applicable to street traffic in the Town.

Sheriff's Deputies as assigned by the Lincoln County Sheriff are hereby authorized to direct all traffic by voice, hand or signal in conformance with traffic laws: provided that, in the event of a fire or other emergency or to expedite traffic or to safeguard pedestrians, conditions may require officers to direct traffic as required by the situation, notwithstanding the provisions of the traffic laws.

Fireman, as directed by the Fire Chief, when at the scene of a fire or similar public safety incident, may direct or assist the police in directing traffic in the immediate vicinity.

4.5 Citation Books

The Town shall provide books containing numbered citation forms;

(a) The Sheriff shall issue such books to individual deputies. The Sheriff shall require a written receipt for every book so issued and shall maintain a record of every such book and each set of citations contained therein.

(b) Except when authorized or directed under state law to immediately take a person before a magistrate or other court official for the violation of any traffic laws, a police officer who halts a person for a violation, other than for the purpose of giving him a warning or warning notice, and does not take such person into custody under arrest, shall take such person's name, address, the operator's license number, the registered number of the motor vehicle involved and such other pertinent information as may be necessary. The officer shall then issue to such person in writing on a Violation Summons and Traffic Form (hereinafter "V.S.T.F."). The alleged violation shall be specified in the citation.

(d) Every police officer upon issuing a V.S.T.F. to an alleged violator shall deposit the copy of the citation with the Sheriff, who shall record it.

(d) The V.S.T.F. shall be disposed of in accordance with those laws of the state which govern the procedures in the District Court.

(e) The Sheriff shall also maintain or cause to be maintained in connection with every V.S.T.F. issued by a member of the Sheriff's Office, a record of the disposition of the charge by the District Court or its Traffic Violations Bureau.

(f) The Sheriff shall also maintain or cause to be maintained a record of all warrants issued by the District Court or by any other court on traffic violation charges and which are delivered to the Sheriff's Office for service, and of the final disposition of all such warrants.

(g) It shall be unlawful and official misconduct for any member of the Sheriff's Office or other officer or public employee to dispose of, alter or deface a V.S.T.F. or any copy thereof, or the record of the issuance or disposition of any V.S.T.F., complaint or warrant, in a manner other than as required by this section.

(h) It shall be unlawful for any person to cancel or solicit the cancellation of any V.S.T.F. in any manner other than as provided by this article.

(i) No person shall remove from any vehicle a V.S.T.F. or notice or citation placed or in such vehicle by a police officer, except for the purpose of answering such notice or citation as required therein.

(j) Each owner or operator of a vehicle who receives a V.S.T.F. shall, within 48 hours of the time when such notice was attached to such vehicle, pay the Town the penalty as stated on the V.S.T.F. The failure of such owner or operator to make such payment shall render such owner or operator subject to a penalty of double the fine, and shall render such owner or operator subject to the penalties hereinafter provided for the violation of the general provisions of this Ordinance.

ARTICLE 5 FINES

5.1	Waiver Fines	
	Failure to stop	\$ 100
	Failure to obey traffic control order	\$ 100
	Damage or taking traffic device	\$ 100
	plus restitution for value of device and replacement	

5.2 Failure to pay

A person who has not paid the fine amount under within 30 days shall be mailed a written notice informing the person that payment has not been received and that an additional charge of \$2.00 will be assessed for each thirty (30) days of non-payment. Additionally, the notice shall indicate that additional fines may be imposed and that non-payment may be cause for immobilization in place or impoundment of the vehicle. In


...e alternative, a complaint may be made to District Court as provided by 4 MRSA §171-A, and fines and restitution sought as provided by 14 MRSA §5602.

5.3 Public Peace

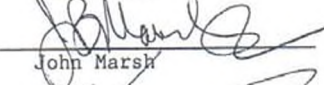
This section is enacted as an enforcement procedure for promotion and protection of the public peace, safety and welfare and the safeguarding of property and shall be used generally for the prevention and removal of traffic hazards, prevention and abatement of public nuisances arising from traffic infractions and for the protection of the public rights in the use of public ways.

This Traffic Ordinance of the Town of Bremen, Maine, has been enacted by the Board of Selectmen on this 17th day of JANUARY.

BREMEN BOARD OF SELECTMEN



Wendy Pich



John Marsh



Henry Nevins



TOWN OF BREMEN
PO Box 171
BREMEN, MAINE 04551
(207) 529-5945 • FAX (207) 529-6302

TOWN OF BREMEN
TRAFFIC AND PARKING ORDINANCE
ENACTED MARCH 5, 2015

The following Amendments to the Bremen Traffic and Parking Ordinance are enacted by the Selectmen of the Town of Bremen on March 5, 2015, according to the provisions of 30-A MRSA §3009:

Article II – Traffic - Sections 2.2 and 2.3 are enacted as follows:

2.2 Traffic Calming Devices:

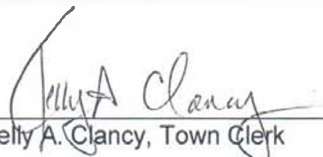
The Board of Selectmen, with the advice of the Road Commissioner, may authorize the installation of traffic calming devices, such as speed bumps or humps, or other like devices to reduce excessive speed in sensitive areas. This will be at their discretion, and the installation of these devices shall follow Maine DOT Guidelines for design and installation.

2.3 Weight Limits:

The Board of Selectmen, with the advice of the Road Commissioner, may establish and post notice of vehicle weight limitations on municipal roads in accordance with Maine DOT Guidelines.

ENACTED: MARCH 5, 2015 AT A PUBLIC HEARING

**A TRUE RECORD
ATTEST:**



Kelly A. Clancy, Town Clerk



TOWN OF BREMEN
PO Box 171, 208 Waldoboro Road
BREMEN, MAINE 04551
(207) 529-5945 • FAX (207) 529-6302

TOWN OF BREMEN
TRAFFIC AND PARKING ORDINANCE
ENACTED JANUARY 21, 2016

The following Amendment to the Bremen Traffic and Parking Ordinance is enacted by the Selectmen of the Town of Bremen on January 21, 2016, according to the provisions of 30-A MRSA §3009:

Article II – Traffic - Section 2.4 is enacted as follows:

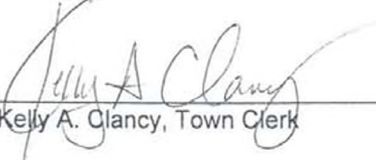
- 2.4 Hay Conservation & Recreation Area: Lower level parking is for Bremen residents only and all handicapped and seniors. Speed limit on the road will be limited to 10 mph. All others are to park in the top parking area. Parking areas will be closed from dusk to dawn.

No off-road motorized vehicles allowed. Vehicles in violation will be towed.

Town Forest & Walking Trails: No motorized vehicles allowed.

ENACTED: JANUARY 21, 2016 AT A PUBLIC HEARING

A TRUE RECORD
ATTEST:



Kelly A. Clancy, Town Clerk